

A MANUAL FOR TOWN CLERKS IN THE COMMONWEALTH OF MASSACHUSETTS

VOLUME 4: ELECTIONS

ELECTION DAY AFTER ELECTION DAY

Written by; MASSACHUSETTS TOWN CLERKS ASSOCIATION
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Written by
Massachusetts Town Clerk's Association

Published by
Institute for Governmental Services
University of Massachusetts

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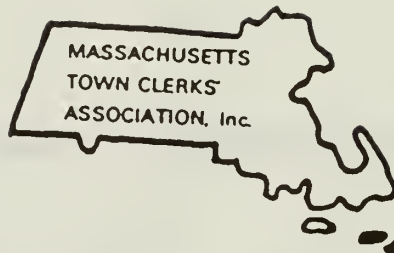
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FOREWORD

Work on the manual covering a town clerk's duties with respect to elections and related subjects, originally planned as Volume 3 of the series of town clerk's manuals, was begun in the fall of 1977 with the establishment of the various subcommittees of clerks interested in participating in the manual project. Following completion of the preliminary work, the subcommittees on voting, registration, census and campaign finance suspended operation for a time while Volume 1, covering vital records, was completed and published in 1982 and Volume 2, covering a town clerk's duties other than vital records and elections, was completed and published in 1984.

In the fall of 1984, the Volume 3 manual project was reactivated and the voting subcommittee again took up its work. During 1985, the vast scope of the material planned for inclusion in Volume 3 became apparent. If the procedures of the three major voting systems, paper ballots, voting machines, and punch card ballots, currently in use in Massachusetts were to be properly covered, the original Volume 3 would have to be divided into three separate volumes.

The work of the voting subcommittee in the early years of the manual project and its intensive work over the past 18 months has led to the publication of both Volume 3, covering a clerk's duties related to preparing for an election and Volume 4, covering the duties on election day itself and the work required following an election day.

Work has begun on Volume 5, the final volume in the series, which will include duties related to voter registration, nominations, annual town census, and campaign finances.

Betsey M. Powers, Editor
Town Clerk, Retired, Sudbury

ACKNOWLEDGEMENTS

The voting subcommittee of the town clerk's manual committee expresses its appreciation to those who have given much time and effort in making the publication of Volume 3 and Volume 4 possible.

The cooperation of the Office of the Secretary of State should be given recognition. In particular, David E. Sullivan, Legal Counsel, Elections Division, deserves our gratitude for the many hours he has given to the review of the text of both volumes. His valuable suggestions made during many conferences over the past 18 months are greatly appreciated.

The Elections Division of the Office of the Secretary of State is also thanked for providing copies of the many forms and publications related to elections. We have drawn heavily upon the Elections Resources Handbook, the Election Officers Handbooks for each type of voting system, articles prepared for the Public Recorder, and the many informational and instructional memos regularly provided to town clerks.

Many town clerks, who are not members of the voting subcommittee, the Executive Secretary, Elections Commission of the City of Newton, and the City Clerk of Waltham should be thanked for providing assistance, information, forms, and suggestions. In particular, we thank Grace I. Bowen, Town Clerk, retired, of Wayland; Edward W. Devereaux, Town Clerk of Natick; and Edith P. McCracken, Town Clerk of Westwood for the hours spent in reviewing text and for making the resources in their offices so readily available.

We acknowledge the valuable assistance of the staff at the Institute for Governmental Services at the University of Massachusetts in the editing and printing of the Town Clerks' Manual.

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TABLE OF CONTENTS

FOREWORD	v
ACKNOWLEDGEMENTS	vii
TABLE OF CONTENTS	ix
LIST OF FORMS	xi
HOW TO USE THIS MANUAL	xiii
CHAPTER 1: ELECTION DAY	1
General	1
Before the Polls Open	3
Declare Polls Open	26
Who May Vote	27
Omitted Voters	44
Supplementary Registration – Specially Qualified Voters	63
Errors on Voting List	64
AV or SAV Marked on Voting List	70
Election Day Problems	76
Regular Inspection of Voting Booths or Machines	120
Observers	122
Prohibited Activities	126
Processing Absentee Ballots at the Polls	134
Closing the Polls	139
After the Polls Close	140
Counting Votes	152
Announce Election Results	218
Report to State Secretary by Telephone or Telegraph	221
Packing and Sealing Election Material	222
Return Election Material to Town Clerk	236
Town Clerk to Receive Election Material	237
Clearing out Poll Place	239
Town Total Vote Sheet	240
Declare Candidates Elected or Nominated	249
CHAPTER 2: AFTER ELECTION DAY	277
Escrow Ballots	277
Absentee Ballots Received Late	285
Certificates of Election or Nomination	291
Permanent Election Record	295
Examining the Checked Voting List	297
Election Returns to be Transmitted	300
Process Certificates & Notes	311
Process Party Changes After Primaries	318
Contested Elections	328
Objections to Nominations	334

TABLE OF CONTENTS (continued)

Chapter 2 (cont.)

Recounts	339
Retaining Election Material	404
INDEX	443

LIST OF FORMS

Sample Write-in Paper	251
Proof Sheet - Printomatic Voting Machines	252
Proof Sheet Certificate - Printomatic Voting Machines	253
Instructions for Demonstration - Punch Cards (Except Datavote)	254
Instructions - Party Change Cards	255
Office Form - Omitted Voter - Party Enrollment Error	256
Examples of Contested Ballot Marks	257
Block Tally Sheet (Method One)	259
Block Tally Sheet (Method Two)	260
Write-in Tally Sheet (Paper & Punch Card Ballots)	261
Total Vote Sheet - Paper Ballot Towns	262
Total Vote Sheet - Paper Ballot Towns	263
Voting Machine Pack Sheet	264
Total Vote Sheet - Voting Machine Towns	265
Total Vote Sheet - Voting Machine Towns (Rows A and B Used)	266
Total Vote Sheet - Voting Machine Towns	267
Precinct Total Vote Sheet - Form E-231M	268
Write-in Paper (right side with write-in votes)	269
Write-in Tally Sheet - Voting Machine Towns	270
Total Vote Sheet - Punch Card Towns	271
Total Vote Sheet - Punch Card Towns	272
Town Total Vote Sheet (total vote in each precinct entered under each office)	273
Alternate Form (total vote in each precinct entered once)	273
Town Total Vote Sheet - Form E-231M	274
Total Vote Sheet - Error Corrected - Adjusted - Absentee Ballots Counted in Office	275
Town Total Vote Sheet - Candidates Not on Ballot in All Precincts	276
Certificate of Necessity	411
Notice to Escrow Voters	413
Receipt for Hand Delivered Notice	414
Notice to State Secretary - State Primary and Election Recounts	414
Summons with Officers Return - Form 494	415
Certificate of Election (Card Form)	417
Permanent Election Records (Minute Book Paper)	418
List of Officers Elected	419
Names of Selectmen and Clerks	420
Envelope (contains state election return forms sent by state secretary	421
Envelope (for sending completed return forms to state secretary)	421
Return of Votes to State Secretary	422
Form for Election Returns to County Commissioners - County Treasurer	424
Form for Election Returns to County Commissioners - Register of Deeds	425
Envelope (for returns to county commissioners)	426
Form for Election Returns to Clerk of the Courts - County Commissioners	427

LIST OF FORMS (continued)

Envelope (for returns to Clerk of the Courts)	428
Number of People Who Voted (in towns with precincts)	429
Number of People Who Voted (in towns without precincts)	430
Corrected Affidavit of Registration (back of form)	431
Objection to Nomination (suggested by State Ballot Law Commission) .	432
Town or Precinct Recount Petition	434
State-Wide or District-Wide Recount Petition	436
Notice to Candidates - Recounts (Paper Ballots and Punch Cards) . . .	438
Notice to Candidates - Recounts (Voting Machine Examination)	439
Sample Recount Seal	439
Amendment to Permanent Election Record (town voting by precincts) . .	440
Notice - Discontinue Recount	441

HOW TO USE THIS MANUAL

Throughout this manual many references will be made to the General Laws and to the Acts and Resolves of the Commonwealth and to the Regulations promulgated by the state secretary covering election procedures. These citations refer to specific items and indicate where further information pertaining to that topic may be found.

In order to conserve space, the following legend will be used throughout this manual:

– The General Laws of the Commonwealth

The first number denotes the chapter of the General Laws and numbers after the colon, the section of that particular chapter. For example: [41:1,107] means Chapter 41, sections 1 and 107 of the General Laws.

– The Acts and Resolves

The first number denotes the year in which the act was passed and the second number the chapter. For example: [1985:477] is Chapter 477 of the Acts of 1985.

– Regulations promulgated by the state secretary

The regulations promulgated by the state secretary covering election procedures are as follows:

- 950 CMR 51.00 (paper ballots)
- 950 CMR 52.00 (AVM voting machines)
- 950 CMR 53.00 (Shoup voting machines)*
- 950 CMR 54.00 and 55.00 (punch card systems)
- 950 CMR 56.00 (handicapped accessibility)

*Regulations pertaining to the Shoup voting machine will not be covered in this manual as no towns in Massachusetts are currently using them.

For example: [Regs. 51.03(23)(a)] would mean state secretary's regulations pertaining to paper ballots. The first number, 51.03, denotes the section of the regulations; the following number (23), the appropriate paragraph; and (a) the sub-paragraph where the citation will be found.

Public Access Regulations, State Ballot Law Commission Regulations, and Adjudicatory Procedures Regulations are given as full citations in the few places where they occur.

1

ELECTION DAY

I. GENERAL

NOTES

As town clerk, you are responsible for protecting the fundamental constitutional right to vote and for safeguarding the integrity of the election process at its most basic level, the election itself. The town clerk supervises all election officers [54:71A], police officers on election duty [54:72] and custodians of voting machines, if any [54:30A] and is ultimately responsible for everything that happens at all polling places on election day.

Note: In towns having an election commission, that commission has all the duties and responsibilities of a town clerk with respect to elections. [51:16A]

The town clerk may make regulations, consistent with law, relative to the use of ballot boxes and seals, counting and other apparatus, the receiving of ballots and the counting and return of ballots. [50:7] In addition, any regulations made by the town clerk must be consistent with those promulgated by the state secretary to achieve and maintain the maximum degree of accuracy, impartiality and efficiency on the procedures of voting and of counting, tabulating and recording votes. [54:37] The state secretary's regulations promulgated under 54:37 related to election day procedures are 950 CMR 51.00 (paper ballots), 52.00 (AVM voting machines), 54.00 and 55.00 (punch cards). Regulations related to handicapped voting are 950 CMR 56.00. References to both the General Laws and the Regulations are included in the following where applicable.

Note: The Regulations 950 CMR 53.00 related to Shoup voting machines are not included in this manual since these machines are not used in towns. However, most of the provisions are the same as those appearing in the Regulations related to AVM machines except where mechanical differences require different procedures.

The administration of election laws is not easy, particularly under the pressures of a busy election day. It is wise to approach each election, regardless of the number of contested candidates or the expected voter turnout as though there will be a tie vote, a recount and a court case over the results. You can never be certain prior to an election how close the vote will be and strict adherence to proper election procedures is essential.

No matter how carefully you have prepared, unexpected questions or problems often arise during an election. Voters feel strongly about their right to vote and if they perceive, correctly or incorrectly, that

their right has been infringed, or that officials are not responding to their needs, they usually become very upset and sometimes irate. A calm and courteous approach by all the officials involved in an election and sometimes courage in the face of threats, is required.

If, in the practical application of the laws and regulations to a specific problem on election day, you must choose between protecting the integrity of the election and protecting the voter's rights, try to make a decision in favor of the voter. BUT, do not allow yourself to be pushed so far in that direction that the election results will be jeopardized or called into serious question at a later time. Keep in mind that some procedures are more important than others. Some mistakes will affect the results of the election and others will not. For example, if black pencils are used by mistake instead of red in tabulating votes, the election results will not be jeopardized. However, if a ballot is illegally cast, a legally cast ballot is lost or not properly tabulated, the results will be affected.

In addition, it should be remembered that decisions related to a person's eligibility to vote must be made by the board of registrars or, in towns having an election commission, by that commission. While the registrars often depend upon the town clerk's knowledge of election law and often follow the town clerk's recommendations, it is essential that the town clerk does not make unilateral decisions concerning voter eligibility unless the registrars have authorized such decisions by a formal vote at a duly called and posted meeting prior to each primary and election. The vote, including guidelines for making such decisions should be recorded in the minutes of the meeting.

When the correct decision relative to a person's eligibility is not clear, it is better to make a tentative decision on election day by permitting the person to vote only by challenged ballot or by marking an escrow ballot. The challenged and escrow ballot procedures allow the ballot to be segregated at a later time when a final decision on eligibility can and should be made, either at a recount or by a court.

In some towns, town counsel is available on election day for needed advice. Advice may also be obtained on election day from the Elections Division at 727-2828 or 1-800-462-8683, or from another town clerk. Arrangements may be made with the Elections Division for obtaining advice during a town election held on a Saturday when the Division office is not open. It is suggested that you call the Division several days prior to the election to make such arrangements.

II. BEFORE THE POLLS OPEN

A. AT TOWN HALL

1. The Town Clerk

It is essential that you, or your designee who has authority to open the vault or other area where the packed election boxes have been stored overnight, are at the town hall before the election officers are scheduled to arrive at the polling places in order to allow ample time for the materials to be delivered. Some town clerks use a wind-up rather than an electric alarm clock to be certain they are awake early enough on election morning in spite of a possible power failure. Others ask the police department to call them early on election morning.

An election cannot be cancelled or postponed regardless of the natural or man-made obstacles you may encounter on election day. A snow, sleet or ice storm is not unusual on the day of an early spring town election, a presidential primary or a November election. If such a storm is in process the night before the election or predicted for election morning, it is suggested that you make arrangements with the police or highway department to get you to the town hall if necessary. In addition, try to arrange with the highway department to plow or sand the area around town hall and the polling places early on election morning.

Either the town clerk or his designee should remain at the office both during delivery and thereafter to receive calls from the warden and to handle any problems reported, unless all polling places are nearby or in the same building as the office.

2. Police Officers

If police officers are to help you deliver election materials to the polls, they should also arrive at town hall on time. It is suggested that you not wait for a late officer more than about 5 minutes before calling the the police department or the officer at home to determine if he is on his way or to obtain a substitute, if necessary.

Some town clerks check with the police department the day before the election to be certain a sufficient number of officers have been scheduled for election duty and ask that they be reminded of the hour they are to appear at town hall the next day.

If the materials are to be delivered to several precincts, it is suggested that they be arranged in order by precinct number before the police officers arrive and that the precinct list be checked off as each officer picks up the material for delivery to his assigned precinct. Also, be certain that each person delivering election materials understands that he must go directly to the polling place.

B. DELIVERY PROBLEMS

While car accidents or other disasters during the delivery of election material are not common, it is worthwhile considering ahead of time what steps should be taken in this event. You may not be aware of the situation until you receive a call from the precinct warden telling you that the material has not arrived. In this case, contact the police department immediately. If the material is being delivered by police cruiser, the department may be able to make radio contact. If not, the department can send a cruiser to investigate.

If the election box is intact and the material undamaged, have the investigating cruiser deliver it to the polls immediately. Unless the accident was very severe, some of the materials may be usable. If not, substitutions must be made and delivered to the polls as soon as possible. Concentrate first on providing only those materials essential for opening the polls. Other materials may be prepared during the day and sent to the polls later.

If it is necessary to use any substitute material or equipment, the event, including the reasons for substitutions, should be recorded by the election clerk in the election record.

1. Substitute Ballots [54:61]

If ballots provided for any polling place are not delivered, or if after delivery they are destroyed or stolen, the town clerk shall cause similar ballots to be prepared. The substitute ballots should be sent to the polls as soon as possible accompanied by the town clerk's statement on oath that the substituted ballots were prepared and transmitted by him and that the original ballots were not delivered, or were destroyed or stolen. [54:61] (see sample statement on page 5)

The General Laws do not specify what should be used as substitute ballots. They should be as nearly as possible like the original ballots. Later on election day you may be able to obtain additional official town election ballots from your printer, or official state election ballots through the Elections Division. However, other substitute ballots will be needed in the meantime.

a. paper ballots

Extra absentee ballots may be used. If there are not enough extra absentee ballots, the inside of a paper ballot can be photocopied and the copy folded lengthwise to provide a supply. You may be able to obtain help from the school department for photocopying ballots. If the copy must be more than one page to include all the offices, candidates and questions, staple the pages together to ensure that each voter is given the entire ballot. If necessary, copies may be made using 8 1/2" X 14" paper. There will probably not be time to trim the paper by 1/2" to comply with the length limit prescribed by 54:44.

The engineering department may be able to make copies of ballots requiring paper wider than 8 1/2" although that department may not be open early enough on election morning to be of much help.

As a last resort, type the offices, candidates and questions appearing on the official ballot, draw the lines and boxes and make copies on the office copier. If photocopies must be used, the outside of the ballot will be blank.

Note: For primaries, provide substitute ballots in a different color for each party, if possible. Otherwise, the party name or initial should be typed or written on the outside of each ballot.

SAMPLE STATEMENT TO ACCOMPANY SUBSTITUTE BALLOTS

This is to certify that the original official ballots for precinct [#] to be used in the [election/primary] of [date] were destroyed and that the enclosed ballots have been prepared and transmitted by me for use in the place of the original ballots.

Signed under the pains and penalties of perjury,

Signature
Town Clerk

Note: If there is a notary present in the town hall at the time the substitute ballots are prepared and transmitted, the statement can be notarized. However, since these ballots are likely to be prepared very early election morning, no notary may be available and the transmission of the ballots to the polls should not be delayed waiting for

someone to administer an oath. Signing under the penalties of perjury can be substituted for the oath. [4:6(6); 268:1A]

The original statement should be attached to the election record. It is suggested that a copy of this statement be kept on file in your office as long as the cast ballots are kept. (see AFTER ELECTION DAY, XII. RETAINING ELECTION MATERIAL on page 404)

b. punch card ballots

It is suggested that, if possible, you regularly keep a supply of extra punch cards ballots and gray write-in envelopes on hand in your office to be used in case the election boxes are not delivered. Except in a Datavote town, unused punch cards left over from a previous election may be used. A colored card may be used but one color should be used in a precinct for an election. At a primary, a different color should be used for each party in each precinct.

In a Datavote town, extra absentee punch cards can be used or some punch cards from one precinct can be shifted to another, provided the ballot is the same, until substitutes can be provided. As a last resort, a punch card ballot can be photocopied to produce a paper ballot which the voter should mark and fold the same as an official paper ballot. Such ballots will have to be hand counted on election night.

The statement shown in a. above should be included with the substitute ballots.

Note: Substitute demonstrator cards will also need to be delivered so that the marking units can be tested before the polls open and voters can be given instructions, if necessary, immediately after the polls open.

c. voting machine towns

In voting machine towns, the official ballot labels will have been installed on the voting machines already at the polls. However, a supply of extra absentee ballots should be delivered for use as challenged and escrow ballots.

In addition, substitute voter authority certificates will be needed. If you do not have a supply of extra printed voter authority certificates on hand, send some 3" X 5" scratch pads or slips of blank paper. The election officers can write the date of the election and a number on each slip of paper before giving it to the voter.

2. Envelopes

The only envelopes needed during the day are those prepared for spoiled ballots in paper ballot and punch card towns and for escrow ballots in all towns. Since there may be some of these ballots soon after the polls open, substitute envelopes should be sent as early as possible.

3. Voting List

Two substitute copies of the voting list including supplements, if any, will be needed in paper ballot and punch card towns; one copy in voting machine towns.

You should not take the time to add AV or SAV next to absentee voters' names on the substitute lists prior to sending them to the polls or to make the corrections appearing on the original list prepared for the polls unless this work can be done very quickly. The election officers should add this information before the polls open, if possible, or as time permits during election day. They will need a copy of the list of absentee ballot applicants and a list of the corrections from which to work.

4. Pencils

Unless a supply of pencils or pens was left at the polling place during preparation, a new supply will need to be sent for the use of the election officers in checking the voting list and for voters who wish to vote by write-in.

5. Voting Machine Keys

In voting machine towns, the extra set of #2 and #3 voting machine keys for each machine will need to be sent to the polls. Unless the extra keys are kept in your office, you will have to contact the voting machine custodians to have the keys delivered to the polls as soon as possible. If the required information cannot be entered on new #7 envelopes, be certain that the protective and outside public counter numbers and the seal number for each machine is entered in the election record as well as the reason that the substitute keys were delivered.

6. Certificates

In most towns, extra blank warden's certificates and certificates of party enrollment error are kept on hand. If necessary and the warden is experienced, he can write out these certificates as needed using any ordinary blank paper until new forms can be delivered.

7. Copy of Warrant

If the warden or election clerk opens the polls with a formal statement, a copy of the opening and closing of the warrant and the officer's return of service may need to be delivered to the polls. (see III. DECLARE POLLS OPEN on pages 26 and 27)

8. Ballot Box [54:66; Regs. 51.03(26), 54.03(26)]

In some towns, ballot boxes are delivered to the polls on election morning. 54:66 provides that if it becomes impossible to use the state ballot box, the voting shall proceed in such manner as the presiding officer shall direct. (also see Regs. 51.03(26), 54.03(26)) The warden may use a cardboard carton or whatever box is available at the polls. It is suggested that the top of a carton be taped to seal it and a slit cut so that voters can deposit the ballots. The carton should remain sealed until after the polls close unless it becomes too full to be used. (see IX. H. BALLOT BOX PROBLEMS on page 95)

The election clerk should record a statement that the state ballot box was not used including the reasons and enclose an attested copy of the record in the envelope or box with ballots cast before sealing them for return to the town clerk on election night.

9. Telephone

If the precinct telephone unit was damaged while being transmitted to the polls, another unit should be sent as soon as possible unless there is a telephone near the polls which can be used by the warden.

10. Other Election Material

If there is time and the supplies are available, deliver extra copies of the specimen ballot, instruction and penalty cards, and for a November election, extra copies of the Information For Voters pamphlet. Photocopies may be used if you do not have a large enough supply on hand.

Once you have had the essential material delivered to the polls so they may be opened and voting begun, prepare the other substitute election materials such as tally sheets, envelopes for sealing ballots, tally sheets and voting lists, etc. and forward them to the polls as soon as prepared.

11. Penalties [54:27; 56:49]

The penalty for wilfully injuring, tampering with or destroying a ballot box or any tally sheets [54:27] and for wil-

fully obstructing or interfering with the transmission of ballots to a polling place [56:49] is a fine of not more than \$500.00 or imprisonment for not more than 1 year.

C. AT THE POLLS

1. Election Officers Arrive

It is essential that at least the warden arrives at and has access to the voting room well before the polls are to open. Since some of the necessary preliminary work cannot be done until two election officers of different parties are present, the warden and the election clerk in some towns are required to arrive at the same time. In other towns, all election officers are required to arrive the same time as the warden.

To ensure that election officers are at the polls on schedule, some town clerks have organized a wake-up call system for election morning or have assigned the precinct warden the responsibility for calling the other election officers who will work in his precinct. If a particular election officer has regularly been late on election morning, it is suggested that you make certain he is called even though other election officers are not.

If weather is bad, some election officers may need transportation to the polls. This may be arranged with the police or highway department the day before the election.

In any event, the warden should be provided with a list of election officers who are to work in his precinct and instructed to notify you if an officer does not appear at the scheduled time so a substitute can be obtained. [Regs. 51.02(2), 52.02(2), 54.02(2)]

The warden should also be certain that all election officers have been sworn in before they start to work. [54:20; Regs. 51.02(1), 52.02(1), 54.02(1)] (see ELECTION OFFICERS in Volume 3 of this series for oaths required)

2. Receiving Election Material

If the precinct warden does not receive the election box or boxes at the scheduled time, he should notify you without further delay.

As soon as he receives the election materials, the warden should open the box(es) and check the contents to be certain everything has been included. If the receipt provided for the warden's signature contains all election material transmitted, he may check the contents against the receipt. Otherwise, a

separate check list may be prepared for the warden. (see PREPARING ELECTION MATERIALS, VII. PACKING ELECTION BOXES, in Volume 3 of this series) The warden should immediately report any missing items to allow time for appropriate material to be transmitted.

After he has checked the materials, the warden should sign the receipt. At town elections, the two election officers assigned to the check-in table (ballot clerks) should also sign the receipt. The receipt should be returned to the town clerk and kept on file in his office for one year. [54:60]

D. PRELIMINARY WORK AT POLLS

In many towns, all necessary election equipment, such as voting booths, ballot boxes, voting machines, marking units, tables and chairs have been arranged in the polling places prior to the election. In addition, all inside signs may have been posted and, in some towns, the specimen ballots and cards of instruction and penalty cards have been posted. The details of arranging equipment, furniture, signs etc. are included in Chapter 3, III. PREPARING THE POLLING PLACE FOR AN ELECTION in Volume 3 of this series. However, the warden should check to be certain that everything is in place. If some of the preparation has not been completed, he must see that it is done.

Even though the polling places are well prepared before election day, certain work outlined below cannot be done before election day and must be done by the election officers on election morning. It is suggested that the work essential for voting be done first to allow as much time as possible to solve problems before the polls must open for voting. If necessary, other work can be completed after the polls open. If any problem develops, the warden should notify you immediately. (see Regs. 51.02(14), 52.02(20), 54.02(16))

Since all preliminary work should be done in public, the doors to the polling place should be unlocked. Observers should be permitted to watch the proceedings from outside the guard rails but should not be permitted to interfere with the election officers.

1. Check and Count Ballots

a. paper ballot towns [Regs. 51.02(5),(6)]

The official ballots should be checked and compared to the specimen ballot to be certain that those for the correct precinct have been received and that the offices, candidates and questions are the same on both. [Regs. 51.02(5)] If they are correct, the number of official ballots should be counted and the actual number received

recorded in the election record. [Regs. 51.02(6)] For primaries, count and record the number of ballots for each party separately.

54:65 requires that the presiding election officer shall, at the opening of the polls, publicly open the packages containing the ballots and deliver them to the ballot clerks. However, time constraints and the Regulations require that the ballot packages be opened before the polls open.

Note: The number of ballots transmitted should have been entered by the town clerk on the outside of the ballot package. [54:59] In many towns, the number of ballots transmitted is entered on the receipt to be signed by the warden. If the number counted by the election officers is not the same as the number on the package or the receipt, a second count should be made. If the numbers still do not agree, this fact should be recorded in the election record.

b. voting machine towns [Regs. 52.02(11),(17)]

Unused paper ballots sent to the polls in a voting machine town are absentee ballots to be used for challenged or escrow ballots and to be used in case all voting machines fail. The General Laws do not require the number of these ballots to be counted.

However, Regs. 52.02(17)(c) do require that, before the polls open, the election clerk record the actual count of the absentee ballots received. In a primary, count and record the number of ballots separately for each party.

In addition, if voted absentee ballots are sent to the polls before they open, these should also be counted and the number recorded separately. Note that this number may change if voted absentee ballots are subsequently delivered to the polls.

In some towns, the voter authority certificates are counted by the election officers and the number is recorded in the election record even though this is not required by the General Laws or by the Regulations.

The specimen ballots should be checked and compared with the ballot labels in each machine to be certain that those for the correct precinct have been installed and that the offices and candidates are the same. If the labels are not correct, the machine cannot be used until the correct labels are inserted. [Regs. 52.02(11)] But, there are other steps which must be taken first. (see E. on page 17)

c. punch card towns [54:33E; Regs. 54.02(6),(8)]

Before opening the polls, the presiding officer accompanied by a majority of the election officers, shall examine each special marking unit and determine whether it is properly equipped and, except in Datavote towns, whether the correct official ballot booklets are properly in place. [54:33E] Except in Datavote towns, the election officers shall check the punch card booklets against the specimen ballot to see that they are the correct booklets for the polling place. The candidates' names (and numbers, if any) under each office shall be checked. Incorrect booklets shall not be used. [Regs. 54.02(6)]

In Datavote towns, the punch card ballots should be checked and compared to the specimen ballot to be certain that those for the correct precinct have been received and that the offices, candidates and questions are the same on both.

In all punch card towns, the election officers shall count and record the actual number of punch cards received at the polling place. [Regs. 54.02(8)] For primaries, count and record the number of punch card ballots for each party separately. Even if they have been stapled in blocks of 50, the cards themselves should be counted. The total number should not be calculated by counting the number of blocks and multiplying by 50.

In some towns, loose punch card ballots are arranged in blocks of 50 at the time they are counted. The gray write-in envelopes are also arranged in blocks of 50 although there is no requirement that these envelopes be counted.

Note: When checking the official ballot booklets in punch card towns and the ballot labels in voting machine towns against the specimen ballot, it will take less time if one election officer reads the information from the specimen ballot while another checks the booklets or labels.

2. Check-in Table

In many towns, while some election officers are checking and counting ballots, other election officers or the town clerk, if at the polls, prepare the check-in table.

The following materials must be placed on the check-in table:

- paper ballot towns: the official paper ballots (for each party in a primary) [54:65; Regs. 51:02(7)]

- punch card towns: one stack of punch card ballots (for each party in a primary) and the gray write-in envelopes [54:65; Regs. 54.02(9)] In some towns if election day is snowy or rainy, paper towels are provided at the check-in table for voters since it is essential that ballot cards do not get wet.

Note: Regs. 51.02(3) and 54.02(3) require that the boxes containing paper ballots or punch cards and gray write-in envelopes must be in full view at all times. In some towns, all the ballots are placed on the check-in table. In other towns, a supply of ballots is placed on the table and the box containing the rest of the ballots is placed nearby.

- voting machine towns: voter authority certificates [54:31; Regs. 52.02(5)]

Note: Regulation 52.02(3) requires that the receptacles for used voter authority certificates, but not the unused certificates themselves, be in full view at all times. In some towns, all of the certificates are placed on the check-in table. In other towns, a supply is placed on the table and the rest are kept with other election supplies.

- in all towns: a copy of the voting list, including supplements and the list of nonregistered specially qualified voters, if any [54:67; Regs.] and the pencils or pens for marking the voters' names.

At November elections, the state Information For Voters pamphlet, at least 1 copy for each 100 registered voters, must be placed near the check-in area. In some towns, these are placed on the check-in table. In other towns, they are placed on a separate table nearby. In either case, they should be outside the guard rail. [54:65; Regs.]

3. Check-out Table

In paper ballot and punch card towns, a copy of the voting list and pencils or pens for marking it should be placed on the check-out table. [54:67; Regs. 51.02(7), 54.02(9)] In punch card towns, an envelope or box for the stubs removed from the voted punch card ballots may also be placed at the check-out table. There is no check-out table in voting machine towns.

In some towns, party change cards required by 53:38 are placed on the check-out table, but they may be placed elsewhere outside the guard rail.

4. Ballot Box [54:66; Regs. 51.02(8),(10)-(13); 52.02(16)-(19); 54.02(10),(12)-(15)]

The election officers at each polling place shall, at the opening of the polls and before any ballots are received, publicly open the ballot box and ascertain by personal examination, and publicly show that the same is empty. They shall immediately thereafter lock or fasten the box. [54:66] While the General Laws require that the ballot box be opened and examined at the opening of the polls, the Regulations and practical time constraints require this to be done before the polls open. [Regs. 51.02(10), 52.02(16), 54.02(12)]

Note: In voting machine towns, the ballot box is usually not examined until after all the procedures related to the voting machines have been completed since voting can start without having the ballot box ready. (see E. on page 17) In punch card towns, the ballot box is usually examined before the units are tested since it will be needed as soon as the first voter has voted. Some marking units can be tested after the polls open, if necessary. (see F. 1. Test Marking Units on page 25)

The side door of the box must be unlocked and at least two election officers of different parties should actually look inside. In some towns, the warden and the election clerk examine the box. In other towns, two inspectors or the warden and an inspector do this. All election officers and observers or voters present should be permitted to see inside the box as well, if they wish. [Regs. 51.02(10), 52.02(16), 54.02(12)]

After examining the inside of the box, the side door should be locked.

The top of the box should be opened to ink the fabric wheel and set the ballot box register at zero, if this has not already been done. The handle should be placed on the stud. The top of the box should then be locked. The small door through which ballots are deposited should be unlocked and opened. This door needs to remain open all during the election regardless of the type of voting system used.

The election clerk must record that the ballot box was examined, found to be empty and the number shown on the register. [54:66; Regs. 51.02(11), 52.02(17), 54.02(13)] If any papers or ballots were found in the ballot box, the clerk should record that they were removed.

After the examination and the side door and the top have been locked, the keys should be given to the police officer. [54:66; Regs. 51.02(12), 52.02(18), 54.02(14)] If the police officer is to be relieved by another officer during the day, be

certain he gives the keys to his relief before leaving the polls.

The ballot box shall not be unlocked until ballots are removed for counting after the polls have closed. (see exceptions under IX. H. BALLOT BOX PROBLEMS on page 95) It must not be removed from public view until it has been relocked or sealed after ballots have been removed. [54:66 Regs. 51.02(13), 52.02(19), 54.02(15)]

In paper ballot and punch card towns, the ballot box should be placed next to the check-out table inside the guard rail. [Regs. 51.02(8), 54.02(10)] Place the box within easy reach of the election officer who is to crank in the ballots. In voting machine towns, it may be placed in any convenient location inside the guard rails as long as it is in plain view.

5. Specimen Ballots and Cards [53:36; 54:65; Regs. 51.02(4); 52.02(4); 54.02(5); 56.02(5)]

a. posting

At least 3 specimen ballots, cards of instruction and penalty cards should be posted outside the guard rails in locations easily accessible to the voters, if these have not already been posted. In primaries, at least 3 specimen ballots of each party must be posted. If a large turnout is expected, additional specimen ballots and cards of instruction may be posted.

At least one specimen ballot must be posted in each polling place at a height no greater than 48 inches for the use of handicapped voters. In a primary, one of each party must be posted at this height. [Regs. 56.02(5)(c)] In addition in voting machine towns, a specimen ballot must be placed at a height no greater than 48 inches in at least one voting machine in each polling place. In a primary, if separate machines are used for each party, place a specimen ballot of the appropriate party in at least one machine for each party. If each machine is used for both parties, a specimen ballot for both parties should be placed in at least one machine. [Regs. 56.02(5)(b)]

In some towns, instructions for voting are also placed in each voting booth or voting machine.

b. extra specimen ballots

All specimen ballots not posted shall be kept in the warden's custody until after the polls close. These should be used to replace a posted specimen ballot which has been marked or torn during the day. If there are some extras

left at the close of the polls, they may be given out to observers shortly before the public announcement of the vote for recording the results.

c. penalty [56:24]

The penalty for wilfully defacing, tearing down, removing or destroying any card of instruction or specimen ballot posted for the instruction of voters is a fine of not more than \$100.00.

6. Signs

If signs have not already been posted or placed, the election officers will need to do this. Usually, inside signs have been posted during polling place preparation, but outside signs have not. (see POLLING PLACES in Volume 3 of this series)

7. Ramp

If a portable ramp is provided for the polling place, it should be set in place before the polls open.

8. Assign Election Officers [54:17, 33B, 67, Regs. 51.02(9), 52.02(6), 54.02(11)] (see ELECTION OFFICERS in Volume 3 of this series)

The warden should assign two inspectors of different parties to act as ballot clerks at the check-in table, who shall have charge of the ballots and furnish them to the voters. [54:17; Regs. 51.02(9), 54.02(11)] This provision also applies to primaries [53:24] and to town elections where official ballots are used. [41:6] In voting machine towns, the two inspectors at the check-in table furnish voter authority certificates to the voters instead of ballots. [54:33B, Regs. 52.02(6)]

Except where voting machines are used, the warden should assign two election officers of different political parties to the check-out table, one to be in charge of the ballot box and the other to be in charge of the voting list. [54:67; Regs. 51.02(9), 54.02(11)] In voting machine towns, two election officers of different parties should be assigned to the voting machines to receive the voter authority certificates from the voters and to activate the machines. [54:33B; Regs. 52.02(6)]

The election officers should be at their stations just before the opening announcement is made since a line of voters, who wish to vote before going to work, has often already formed and they will be eager to check in and vote immediately after the opening.

9. Assign Police Officers

The warden should also assign the police officer to his specific duties and location. The officer should be in place by the time the polls open. (see POLICE in Volume 3 of this series)

Note: It is essential that the polls open on time and every effort should be made to complete all work before that time. However, if necessary, the work outlined in 5. through 7. above can be done after the polls open.

E. VOTING MACHINE TOWNS - ADDITIONAL PRELIMINARY WORK

In voting machine towns, work in addition to that outlined in D. above, must be completed before voting can begin. The voting machines must be opened and checked in accordance with specific steps prescribed by the General Laws and the Regulations. It is suggested that these steps be started as soon as possible after the election materials received have been checked by the warden. If a problem with a machine develops during the process, the warden should immediately call for help and while waiting, election officers should proceed to the next machine. In this way, if the problem cannot be solved before the polls open, at least some machines will be ready and voting can begin.

If at any time during the procedures outlined below, the election officers notice anything which indicates that the machines may have been tampered with, the town clerk should be notified immediately.

In some towns, the warden and the election clerk work together to open and prepare the machines while the other election officers and the town clerk, if at the polls, prepare the check-in table, post signs, etc. In other towns, inspectors open and prepare the machines.

In some towns, a custodian of voting machines is on duty at each polling place early on election morning to handle machine problems as they occur. However, if there are several precincts in separate locations, there may not be enough custodians to have one at each polling place. In this case, a custodian should be on call and able to get to the polling place within a few minutes. Enough custodians should be available so that more than one polling place can be serviced at a time or within a short period of time. Whether on duty at the polls, or on call, each custodian should have sufficient equipment, including extra ballot labels, to handle problems efficiently.

Note: If the town clerk is proficient in preparing voting machines and is at the polls, he can take care of machine problems.

1. Cranking Up the Machines

Sometimes the machines are cranked up to voting position before election day during the polling place preparation. (see POLLING PLACES in Volume 3 of this series) However, if this has not been done, the election officers, or the custodian of voting machines, will have to do it before work on the machines can start. Unless a power hoist is used, a hand crank should be available at the polls outside of a machine since the key required to open the top door on the back of the machine where the hand cranks are usually stored should not be taken out of the key envelope until step 2. below has been completed.

2. Voting Machine Keys [54:35; Regs. 52.02(7),(8),(9)]

The town clerk must deliver to the warden, at least 1/2 hour before the polls open, the keys for each voting machine sealed in a separate envelope. [54:35; Regs. 52.02(7)] (see E. 5. c. candidates examine counters on page 22) Machine keys sealed in their envelopes may be enclosed in the fibreboard box with other election material or transmitted outside of the box.

As soon as delivered or taken out of the box, the sealed key envelopes may be placed on the machine shelf just under the outside public counter. Check the machine number on the envelope to be certain the correct keys are placed on each machine.

a. compare numbers on envelope to numbers on machine

As soon as two election officers of different parties are present at the polls, work can be started. At least one election officer of each party must examine the key envelope to see that it has not been opened. Before opening the envelope, they must compare the numbers entered on the envelope with the machine number, the seal number (if an outside seal) and the protective counter number. If the seal is inside the machine instead of on the entrance button above the outside public counter, the seal number will have to be checked after the machine is open. In this case, check only the protective counter number and the machine number at this time. [54:35; Regs. 52.02(8)]

b. numbers do not agree

If the numbers do not agree, the machine seal has been broken or is missing, the town clerk or voting machine custodian must be called to examine the machine. One of them must certify that the machine has been properly prepared and arranged for the election before any further work can be done on that machine. The certificate must be filed with the election returns and should be recorded in the election record. [54:35; Regs. 52.02(9)] (see PREPARING

ELECTION MATERIALS, IV. CERTIFICATES & AFFIDAVITS, B. 2. in Volume 3 of this series)

If the numbers do not agree, usually a simple clerical error has been made. However, if the seal has been broken or is missing, the machine should be carefully examined to be certain that it is in proper order. If its condition is doubtful, do not use it in that election.

While waiting for the appropriate certificate, the election officers should proceed with step 2. on the next machine.

c. numbers do agree

If the numbers do agree, the election officers should open the key envelope, remove the keys and take the next step.

3. Check Outside Public Counter

While not required by law or regulation, it is suggested that the election officers check the outside public counter when the seal and protective counter numbers are checked. If the public counter does not register zero, the number appearing should be recorded in the election record. It is also helpful if the number is written on a card or small piece of paper and taped to the end of the machine. This can save time when balancing the machine count with the check-in voting list after the polls close and can allow a discrepancy to be easily explained at a recount, if necessary.

4. Open Top Rear Door

Open the top rear door using key #3 and check the write-in paper roll. There should be either a completed and signed red sticker or the machine number, the date of the election and the custodian's signature entered directly on the paper on the lower roller. (see sample write-in paper on page 251) If this has been omitted, the election officers should draw a line across the width of the paper and, at the left end of the paper, enter the machine number, the date and their signatures. [Regs. 51.02(12)]

Note: The machine number should be written on the write-in paper even though this is not required by the General Laws or the Regulations. Otherwise, the tellers may not be able to determine where on the tally sheets to enter the write-in votes cast. Unless there are very few machines in the polling place, write-in papers can easily get out of order once removed from the machines.

The paper should be tightly wound on the lower roller. If it is not, the custodian should be called to correct the problem. While waiting for the custodian to fix the write-in paper, the election officers can complete the steps for that machine.

Note: On printomatic machines, the election officers should remove the hand crank from the top rear compartment on the first machine, if a crank is not already available outside of the machine. This crank can be used on all other machines and left out during election day so it is ready for use after the polls close. (see step 8. on page 24)

5. Check Counter Compartment [54:35; Regs. 52.02(14),(15)]

The election officers shall examine the counter compartment of every machine to see whether or not it registers zero. If any counter shall be found not to be set at zero (000), the number and letter of the counter and the number registered thereon shall be stated in writing signed by the election officers and posted on the walls of the polling place. A duplicate shall be filed with the election returns. [54:35] The number and letter of the counter and the number registered should be recorded in the election record. [Regs. 52.02(15)] (see PREPARING ELECTION MATERIAL, IV. CERTIFICATES & AFFIDAVITS, B. 3. in Volume 3 of this series)

Note: It is possible to reset a candidate counter to zero at this time if a number is found. However, the machine seal would have to be removed, the front of the machine opened and the machine set in the voting position before the counter can be reset. On a printomatic machine, the pack would also need to be removed and replaced. Usually, there is insufficient time for these steps to be taken and resetting a candidate counter on election morning is not recommended.

The procedure for checking the counter compartment is different depending upon whether the machines are printomatic or not.

a. printomatic machines [Regs. 52.02(14)(a)]

Take the hand crank and place it over the stud at the right rear of the machine just under the bottom of the center door. Hold the crank firmly against the machine while cranking counter-clockwise. Continue cranking vigorously until the platen is all the way to the left. A loud clank can be heard when it gets to the end.

This procedure moves the platen from the right to the left (as you face the back of the machine) and imprints the counter numbers on the machine pack. If the platen does

not move, first try shaking the crank while it is on the stud. Sometimes this will solve the problem. If not, the voting machine custodian should be called to correct the problem. While waiting, the election officers should either go to the front of the machine and open the doors as outlined in step 6. or go to the next machine and start at step 2.

After the platen has moved all the way to the left, the proof sheet should appear at the slot just under the large center rear door. If not, it can be pulled out by reaching up into the slot. Pull only on the corner closest to the bolt until the sheet has been loosened.

On the proof sheet, two election officers of different parties should examine the inside public counter number and all candidate counters that are being used in the election. The sheet will contain candidate counter numbers for all 9 rows on the machine. In most elections, only row A or rows A and B will be used and only these counters will need to be examined. Numbers found on a candidate counter not being used may be ignored. (see sample proof sheet on page 252)

For a November state election and a town election in which questions have been placed at the top of the machine, check the question counter row at the top of the proof sheet as well as the candidate and inside public counters.

After examination, the proof sheets should be placed on a table unfolded, or folded separately so that the certificate is on the outside. When time permits during the day, the warden and clerk will need to date and sign the certificate on each proof sheet. [Regs. 54.02(14)(a)3.] (see sample certificate on page 253)

b. non-printomatic machines [Regs. 52.02(14)(b)]

Open the center rear door on the machine by turning the latch. At least two election officers of different parties must look at the inside public counter and each candidate counter being used at the election to see that it is at zero.

For a November state election and a town election at which questions have been placed at the top of the machine, the question counter row will need to be checked as well.

After the counter compartment has been checked, the rear center door should be closed and locked. (see c. below) It should not be opened again until after the polls close, unless the machine fails to operate properly.

c. candidates examine counters [54:35, Regs. 52.02(14)]

A candidate for public office whose name appears on the voting machine label, or his representative authorized in writing, shall be permitted to examine and check the figures on the back of a voting machine before the polls open to determine that its figures are properly registered. Note that there is no provision in the General Laws to permit write-in candidates to examine the figures even though they may have announced their candidacy before election day. The polling place shall be open 1/2 hour before the polls are to be opened for voting to permit the examination.

The candidate will need to know the number and letter of each candidate counter related to the office he wishes to examine.

If printomatic voting machines are used, no special arrangements need to be made since the candidate or his representative is required to examine the proof sheet rather than the counters on the back of the machine. Proof sheets may be examined at the check-in or other table so that the election officers can continue preparing the machines without interference. However, the examination should take place under the supervision of an election officer to prevent the sheets from being marked, torn or removed from the polls.

If non-printomatic machines are used, having a candidate or representative examine the candidate counters on the back of the machine should be permitted but may cause a delay in completing machine preparation. Leave the center rear door of each machine open as long as possible to permit a candidate's examination. In some towns, the candidate's examination of a machine is permitted as soon as the counters on that machine have been checked by the election officers. In other towns, the counters on all machines are checked and then the examination is permitted. If possible, inform each candidate who wishes to examine the machines of the time he should be at the polls so he can complete his examination in time to permit the machines to be ready for voting when the polls open. If he wishes to examine machines in several precincts, he should give written authorization to enough representatives so that all precincts can be examined at the same time.

However, if a candidate or his representative does not appear until shortly before the polls are to open, you may refuse to permit the examination of a non-printomatic machine. The polls must be opened for voting on time. If

a counter did not register zero, show the candidate the certificate posted on the wall so he can record the figures.

6. Open Front of Machines [Regs. 52.02(10)]

Using key #3, unlock and open the front doors on the machine. The left front door must be opened by reaching inside and turning the latch.

Lift up the bar to which the light and curtains are attached and fit the brackets over the top of the front doors on both sides. On 50 column machines, the left front door is hinged and a section must be folded back. Be sure that the bracket at the end of the curtain bar fits over both sections of the door. Otherwise, the loose section may get in the way of election officers and voters.

Remove the light cord from the hook at the left of the machine and plug it into the outlet provided for that machine. Be certain that the cord is not left where a voter might trip on it.

Snap the curtains to the inside of the doors on both sides. Remove the model voting machine, unless it has already been removed.

Note: In some towns, the front of the machine is opened and checked first and then the paper roll and candidate counters on the back are checked. In some towns having printomatic machines, the back is prepared first since that is the most likely source of machine problems. The front is not prepared until the problem on the back is solved. Usually, these problems are related to the platen and often require the attention of a voting machine custodian either to adjust the after election latch or to push the platen to the left by hand.

Two election officers may work on the back of the machines while others work on the front of the machines. In this way, at least some machines will be fully operational when the polls are opened for voting even though there were problems with one or two machines.

7. Check Ballot Labels [Regs. 52.02(11)]

After the front of the machine has been opened, the ballot labels should be checked against the specimen ballot to be certain the correct labels have been inserted. (see D. 1. Check and Count Ballots, b. voting machine towns on page 11) Also check to be certain that all candidate and question pointers to be used at the election are not covered. (see IX. 1. VOTING MACHINE PROBLEMS on page 98)

If the ballot labels are not correct, the voting machine custodian will have to be called to replace the labels and, if necessary, reprogram the back of the machine.

8. Close and Lock Top Rear Door

Close and lock the top rear door using key #3. On a printomatic machine, this door can be locked after the write-in paper roll has been examined. (see step 4. on page 19) On a non-printomatic machine, it may be locked after the candidate counters have been checked and the center rear door has been closed. (see step 5. b. on page 20) It must be locked before step 9. is taken since the number 2 lock cannot be unlocked if the top door is not locked.

This door should not be opened again until after the polls close unless the machine fails to operate properly.

9. Unlock Number 2 Lock [Regs. 52.03(1)]

After both the front and the back of the machines have been prepared, use the #2 key to turn up the number 2 lock at the end of the machine above the public counter. This procedure "activates" the machine.

The number 2 lock on each machine should be turned up several minutes before the polls open since there is sometimes a problem with this procedure. If the key does not turn on the first attempt, it should be tried again. If it still does not turn, the voting machine custodian should be called. Usually, the after election latch needs to be adjusted.

10. Seal Machine Keys [Regs. 52.03(1)]

After the #2 locks have been turned up and the machines prepared, the keys should be sealed in the proper envelope. If the #7 package is used, it provides a 7-B envelope for this purpose. The keys should be placed in the protective custody of the warden or police officer. If necessary, the machine keys can be sealed in their envelopes immediately after the machine seals are cut.

11. Cut the Machine Seals [Regs. 52.03(1)]

Cutting and removing the machine seals should be timed so that the last seal is removed just as the opening announcement is completed. If you wait until after the announcement is made to start cutting the seals, some voters may have to wait after they have been checked in to use the machines.

Removing an outside seal is much easier if it is pushed up, then cut above the entrance button on the side which goes

through the slot, then pulled down. The bent part of the seal is sometimes difficult to pull through the button.

Note: In some towns, if, because of the requirements of 54:25, more machines have been prepared than will actually be needed at the election, the machines farthest away from the check-in table are not unsealed or used unless the voter turnout is heavier than expected and waiting lines form. In this case, steps 1 through 8 should be completed before the polls open so that the number 2 lock can be unlocked, the seal removed and the machines placed in service quickly. In addition, it would be legally questionable to take steps 1 through 8 after the polls open. Be certain that the procedures used on these machines are recorded in the election record.

12. Model Voting Machine [54:35; Regs. 52.03(11)]

On the day of the election, a mechanical model of the voting machine shall be provided at each polling place outside the guard rails. The model shall be suitable for the instruction of voters and illustrating the manner of voting.

A mechanical model is provided by the manufacturer with each voting machine. In some towns, the model is regularly stored on the brackets provided on the machine. If so, the models should be removed from each voting machine before the polls open. In other towns, the model machines are stored elsewhere.

In either case, the warden should be certain that at least one model has been conveniently located outside the guard rails so that, upon request before being checked in, a voter can be given instructions. However, instructions can be more clearly given at the voting machine just before the voter enters it instead of using the mechanical model.

F. PUNCH CARD TOWNS - ADDITIONAL PRELIMINARY WORK

In punch card towns, work in addition to that outlined under D. on pages 10-17, must be completed on election morning.

1. Test Marking Units [Regs. 54.02(7)]

Election officers shall test punch a demonstrator card in each marking unit to ensure it is in working order. If the marking unit is not working properly, it should be repaired or replaced. Otherwise, it should be turned upside down or removed from the booth and not used at that election.

The test of each unit should be made by placing a demonstrator card in the marking unit in the same way that a voter

would place his punch card ballot. Punch one vote for every candidate and question on the ballot. Check the card to be certain that the holes are cleanly punched in the correct places. Use a new demonstrator card for each marking unit.

In some towns, each marking unit is numbered. After the test, the demonstrator card used is marked with the precinct number and the number of the unit, 1-1, 1-2, etc. To provide a record that the marking units were tested, all test cards are kept together with a rubber band or in a clearly marked envelope and a note "Marking unit test cards, [hour], [date]" or some similar note is attached.

If the system requires a stylus, use the one attached to the marking unit, not an extra stylus. If necessary, replace a bent or broken stylus.

Be certain the light is positioned correctly, that it has been plugged in and turned on.

2. Demonstration Marking Unit [54:33E; Regs. 54.02(4)]

One or more marking units, properly equipped for voting, shall be placed on public exhibition in each precinct for the instruction of voters waiting to vote. These shall be placed outside the guard rail and an election officer shall be detailed by the presiding officer to provide instructions for voters.

In some towns when a light voter turnout is expected, the demonstration unit is placed at or near the check-in table and one of the election officers at that table instructs the voters upon request. In other towns, or when a heavy voter turnout is expected, the demonstration unit is placed elsewhere and an election officer or a registrar is assigned to the unit to instruct voters.

In some towns, written instructions are provided to the person who gives instructions at the demonstration unit. (see sample instructions on page 254)

III. DECLARE POLLS OPEN [Regs. 51.03(1), 52.03(1), 54.03(1)]

In towns having only one polling place or all polling places in the same building, the town clerk often declares the polls open. In other towns and in towns having polling places in different locations, the warden in each polling place declares the polls open. The announcement should be made loudly enough so that the election officers, voters, and observers in the polling place can hear it easily.

The polls should be opened at the time specified in the warrant using the official election time shown on the wall clock, if any, or on the town clerk's or warden's watch. A minute or so before the scheduling time, check to be certain that the election officers are stationed at the check-in table and that all unauthorized persons are outside the guard rail.

The announcement is usually made near the check-in area and should be timed so that it is completed as close as possible to the exact time specified for opening. No voters should be checked in before the official announcement has been made even though a long line may have formed.

The declaration may be simply, "I declare that the polls are open" or "The polls are open." A more formal statement may be used as follows:

I have examined the warrant for this election and the constable's return of service and have found them to be in order. In accordance with the warrant, it now being [hour] A.M., I declare that the polls are open.

If the formal statement is used, the person making the announcement should have actually examined the warrant and return of service. In some towns, a copy is available at the polls. In other towns, the original warrant is examined at the town clerk's office before election day.

To establish a record that the polls opened in accordance with law, the election clerk should enter in the election record that the polls were declared open by the town clerk [warden] and the time the announcement was made. If, for some reason, polls cannot be opened on time, this event should be recorded in the election record including the reasons.

Note: In voting machine towns, if serious problems have occurred in preparing the voting machines for voting and none can be ready on time, voting may begin by using the supply of absentee ballots required to be provided for use in case all voting machines fail. (see 54:31)

IV. WHO MAY VOTE

Each person whose name is found on the voting list shall be eligible to vote. [51:1; 54:76; Regs. 51.03(2), 52.03(2), 54.02(3)] The procedures outlined in A. through D. below cover the majority of voters who appear at the polls on election day. Their names are found on the voting list and they can be checked in, vote and checked out easily without any questions or problems.

A. CHECKING IN VOTERS

1. Voter to Give Name and Residence [53:37; 54:76; Regs. 51.03(3), 52.03(3), 54.03(4)]

Each voter desiring to vote at a polling place shall give his name and, if requested, his residence to one of the officers at the entrance to the space within the guard rail. [53:37; 54:76] While the General Laws require the voter to give his residence only if requested, the address is required by the Regulations and, as a practical matter, it is needed to find the voter's name unless the voting list is arranged in alphabetical order by voters' names and there is only one voter on the list having the name given. [Regs. 51.03(3), 52.03(3), 54.03(4)] If the voting list is arranged by streets, the voter should give his street address first, then his name.

The election officer shall distinctly announce the name and address. [53:37; 54:76]

2. Election Officer to Look for Name

The election officer should search the voting list, including all supplements, for the name given. Before concluding that the name is not on the list, or, if it has been crossed out, that it does not appear elsewhere, the election officer should determine whether or not the voter has:

a. changed his address

If so, the election officer should look for the name under the previous address. If necessary, the voter should be directed to the proper precinct since he must vote in the precinct in which he is listed, unless his address should have been changed. (see Note under V. OMITTED VOTERS B. 2. a. on page 49)

Before sending a voter to another precinct, the warden should check to be certain the voter is listed there. (see Note under V. OMITTED VOTERS A. 1. on page 44)

b. changed his name

If a voter has changed his name, the election officer should look for the previous name. If the voter can be found listed under his previous name, he should be allowed to vote.

Note: In some towns, election officers are required to call the warden to the table before checking in a voter who is listed under a previous name.

c. registered after close of registration

If the voter is certain of the date on which he registered and it is after the close of registration, the election officers may inform him that he cannot vote in this election except by marking an escrow ballot. (see IX. E. ESCROW BALLOTS on page 85) In this case, be certain that the election officers know the date on which registration closed.

However, if the voter believes he registered before the close, the election officers should call the warden to the table. (see V. OMITTED VOTERS on page 44)

Note: In some towns, the election officers are required to call the warden to the table in all such cases. The warden checks a list, available at the polls, of all voters who registered after the close of registration. Or, he follows the procedures outlined under V. OMITTED VOTERS on page 44.

If the name is found, proceed as outlined below. Note that the town clerk may require that election officers request the voter to present written identification even if his name is found on the voting list. If so, identification should be requested at this time. (see 54:76B, Regs. 51.03(5B), 52.03(5B), 54.03(6B))

3. Name Found [53:37; 54:76; Regs. 51.03(4), 52.03(4), 54.03(5)]

a. announce name and if a primary, the party

If the voter's name is found, the election officer must repeat the name loudly and clearly. [54:76, Regs.] The election officer should state the full name, including middle name or initial(s) and any suffix such as Jr., Sr., III, etc. While not specifically required by the General Laws or Regulations, the address should be announced as well. This will help ensure that the correct name has been found. In addition, candidates' checkers will need both the name and address.

Note: 53:37 and 54:76 require that the election officers announce the voter's name after it has been given and repeat the name after it has been found on the voting list. The regulations require the name to be stated only after it has been found on the voting list and in some towns, the name is announced only at that time. It is repeated only if requested by candidates' workers or other observers. Note, however, that the election officers should not repeat

the voter's name and address after he has entered the voting area since this is prohibited by 54:68.

At a primary, if a party enrollment is shown on the voting list, the election officer must announce the party as well. If there is no enrollment shown, the election officer must ask the voter which party's ballot he wishes and repeat the party given by the voter. [53:37; Regs.] The election officers should be very careful not to imply a preferred party by the way in which they ask the voter or by the tone of voice used. The question, "How are you going to vote?" or some similar question should not be used since such a question can easily be interpreted by the voter as an infringement of his right to a secret ballot.

b. mark voting list [53:37,38; 54:67,76; Regs.; 51.03(6), 52.03(6), 54.03(7)]

After the name has been found, the election officer must mark the name on the voting list. [54:67,76; Regs.] The General Laws do not specify what kind of mark is to be used. In most towns, a short line is drawn at the left of the voter's name to, but not through, the party initial, or between the party initial and the name. (see PREPARING ELECTION MATERIALS, VI. MISCELLANEOUS, B. 3. a. in Volume 3 of this series for sample marked voting list) A check mark is sometimes used rather than a line but in that case, the election officers should be careful to line up the point of the check with the name marked.

In some towns, the line is drawn through the voter's name. However, if names have been crossed off the list, this type of mark may make it more difficult to obtain an accurate count of those who have voted unless the election officers use red pens or pencils and the names were crossed off using black ink. In primaries, this type of mark may make processing party changes more difficult, unless the original check-list is used. (see AFTER ELECTION DAY, VIII. PROCESS PARTY CHANGES on page 318)

In any event, it is easier to count the marked voting list after the polls close if all election officers mark the voting list in the same way.

In a primary, unless the party initial is already shown on the voting list, it must be entered by the election officers after the unenrolled voter has indicated his selection. [54:37; Regs.] A capital D or R should be used and care taken to make the letters clear. If an election officer neglects to enter the party, an effort should be made to correct the omission. (see IX. G. PRIMARIES on page 93)

If requested at a primary, the election officers at the check-in table should inform a voter that after he has voted, he may complete a party change card and transmit it to the town clerk or leave it with the person assigned to the party change card table at the polls, if any. Also inform the voter where the cards may be obtained at the polls. [53:38; Regs.]

Note: If AV or SAV has been entered on the voting list opposite the voter's name, his name should not be marked nor should he be permitted to vote unless he presents a certificate signed by the town clerk or assistant town clerk. (see VIII. AV OR SAV MARKED ON THE VOTING LIST on page 70)

c. permit voter to vote

After his name has been marked on the voting list, the voter shall be permitted to vote. Usually the election officer at the check-in table, who is not searching and marking the voting list, hands out the ballots or voter authority certificates.

- (1) paper ballot towns [53:37; 54:76; Regs.
51.03(6),(7)]

In paper ballot towns, the voter should be given a ballot and directed to the voting booth. If a primary, the voter must be given the ballot of the party in which he is enrolled as printed or entered by the election officer on the voting list.

- (2) punch card towns [53:37; 54:33E,76; Regs.
54.03(7),(8)]

In punch card towns, the voter must be given one gray write-in envelope with the punch card ballot. If the Datavote system is used, the voter should be given more than one card if required for the election ballot, but only one gray write-in envelope.

If a primary, the voter must be given the punch card ballot of the correct party but the gray envelope is the same for both parties. Unless the Datavote system is used, the voter will need to be directed to the appropriate marking unit.

- (3) voting machine towns [53:37; 54:33B; Regs.
52.03(7),(8)]

In voting machine towns, the voter must be given a voter authority certificate instead of a ballot. In

some towns in primaries, the certificate is the same for both parties and the election officer marks a large D or R on the certificate before giving it to the voter. In other towns, certificates are a different color for each party and in this case, the voter must be given the certificate of the correct color.

After entering the voting area, the voter must give his certificate to one of the election officers working at the machines. In a primary, the election officer must check the party initial on the certificate or the color to determine which machine the voter must use, if separate machines for each party have been provided. If the ballot for both parties has been installed on all machines, the election officer must set the party lever on the end of the machine above the outside public counter before the voter enters.

The election officer should then push the entrance button and allow the voter to enter and close the curtains.

If some machines have not been unsealed and voters are waiting, these machines should be unsealed and placed in service. (see Note under II. E. 11. on page 25) Voters should not be made to wait in a line simply to avoid using some of the machines.

Note: After a voter has entered the voting area, the officers should not repeat his name and address even though requested by observers. By repeating the name at that time, the election officers would be in violation of 54:68. However, upon request at any time during the election, the number registered on the ballot box or on the voting machine public counters may be given out. In voting machine towns, such a request is usually made of the election officers at the check-in table. They should not leave the table to obtain the information, but should call the warden.

4. Penalties [56:26,28]

The penalty on whoever votes or attempts to vote illegally, more than once, in a name other than his own, or knowing he is not a qualified voter is imprisonment for not less than 6 months nor more than 1 year. [56:26] The penalty on whoever aids or abets a person, not entitled to vote, in voting or attempting to vote, in voting or attempting to vote under a name other than his own or in casting or attempting to cast more than one ballot is also imprisonment for not less than 6 months nor more than 1 year. [56:28]

B. VOTING

1. Voter to Enter Marking Compartment [54:33C,69,77; Regs. 51.03(19), 52.03(9), 54.03(19)]

The voter on receiving his ballot or voter authority certificate shall, without leaving the enclosed space with the guard rails, retire alone to one of the marking compartments.

[54:77] Only one person shall be allowed in a voting booth or voting machine except in cases when assistance is required.

[54:77; Regs. 51.03(19), 52.03(9), 54.03(19)] (see IX. B. VOTER REQUESTS ASSISTANCE on page 78) However, two election officers of different parties may enter a compartment which contains a punch card marking unit or a voting machine after the curtains have been closed if the voter requests instructions. [54:33C] (see IX. A. VOTER REQUESTS INSTRUCTIONS on page 76)

Note: Children, in the company of a voter, may be admitted within the guard rail unless the warden deems that the admittance of the child would disrupt the maintenance of order.

[54:69] In most towns, children under voting age are admitted with their parent and this usually does not cause any problem. However, children should not be permitted to run around the voting area or go into a marking compartment occupied by another voter. In some towns, a civic or youth organization provides baby sitting at the polling place.

2. How to Vote - Candidate's Name on Ballot and Questions

a. paper ballot [54:77,78,82; Regs. 51.03(9),(13)]

After entering the voting booth, the voter must unfold his ballot. The voter shall prepare his ballot by marking a cross (X) in the square at the right of the name of each candidate for whom he intends to vote. [54:77; Regs. 51.03(9)] To vote for a question, he must mark a cross in the square to the right of YES or NO. He may use the pencil provided in the booth or his own pen or pencil.

In state elections, to vote for presidential electors, the voter must mark a cross in the square to the right of the party or political designation appearing on the ballot at the right of the surnames of the candidates for president and vice-president. To vote for governor and lieutenant governor, the voter shall mark a cross in the square at the right of the names of the group of candidates for those offices. Candidates for president and vice-president or for governor and lieutenant governor run as a team. The voter cannot vote for the candidate of one team for president or governor and the candidate of another team for vice-president or lieutenant governor. [54:78] (also see 54:43)

Note: Only the surnames of candidates for governor and lieutenant governor appear on a state election ballot unless two candidates have the same surname. In that case, the christian names and addresses also appear on the ballot, but governor and lieutenant governor must still be voted for as a team. (see 54:41A; 1985:477)

In presidential primaries, the voter may mark a cross in the square at the right of the name of a candidate printed under the office of presidential preference or may mark a cross at the right of "no preference" to indicate that he does not choose to vote for any of the candidates.

He may vote for all candidates for town committee in a given slate by marking a cross in the circle above the list of names. If he wishes, he may vote for individual candidates by marking a cross in the square to the right of each candidate he chooses and may vote for some candidates in one slate, some in another and some candidates running individually provided he does not vote for a total of more candidates than the permitted number. (see 53:70E)

Note: A mark other than a cross may be used by the voter to indicate his intent. [Regs. 51.03(9)] Voters sometimes use a check or other mark rather than a cross. (see XVI. COUNTING VOTES on page 152)

After voting and before leaving the voting booth, the voter should fold his ballot so that the title bearing the official endorsement is on the outside. [54:82; Reys. 51.03(13)]

b. punch card ballot

After entering the marking compartment, the voter must insert his ballot card in the unit provided. He votes by punching holes in the data processing card in conformity with the approved electronic voting system in use. [54:33E] He must use only the voting stylus attached to the chain at the right side of the unit or the ballot punch in a Datavote unit, not the pencil provided in the marking compartment for write-in voting.

If a stylus is required, it should be placed in the circle at the right of the candidate's name or in the circle at the right of YES or NO to vote on a question. The stylus should be held upright and punched through the card.

In Datavote towns, the punch must be centered over the rectangle printed on the card so that the red arrow points to the candidate's name. Depressing the punch makes the

hole in the card. The punch will not work unless it is centered properly. It is possible to punch a hole in a blank space on the card, but this will not spoil the ballot since the ballot counter ignores holes punched in spaces where there is no candidate's name.

In state elections, candidates for president/vice-president or for governor/lieutenant governor appear as a team the same as on a paper ballot. The voter must vote for a team by punching one hole on the card. (see 2. a. on page 33)

In presidential primaries, voting for presidential preference or no preference and voting for town committee members by slates or individually using a punch card ballot is the same as on a paper ballot, except that a hole is punched instead of a cross drawn. (see 2. a. on page 33)

After voting and before leaving the marking compartment, the voter must remove the punch card from the unit. If a stylus was used, he should hold the card up to the light to observe whether the holes have been punched cleanly and clearly. For a Datavote card, he should check to be sure the holes appear opposite the names of the candidates for whom he wished to vote. If not, he should return the ballot to the check-in table and obtain a new ballot. (see IX. C. SPOILED BALLOTS on page 79) If the ballot is correctly punched, he should place the card or cards in the gray write-in envelope so that the blank side of the card, if any, shows through the window. (see Regs. 54.03(17)) He should not remove the ballot card stub at this time. However, removing the stub does not spoil or invalidate the ballot. (see C. 5. b. on page 41)

c. voting machines

After giving his voter authority certificate to the election officer in charge of the voting machine and after the election officer has pushed the entrance button to release the machine, the voter should enter the machine compartment and move the large red handle all the way to the right. A bell will ring when the handle is in the correct voting position and the curtains will be closed.

The voter must vote by pushing down the pointer above the name of the candidate for whom he wishes to vote under each office. Each pointer should remain down unless the voter wishes to change his mind and vote for a different candidate. In that case, he simply pushes the pointer back up to the horizontal position and pushes another pointer down.

In state elections, candidates for president/vice-president or for governor/lieutenant governor appear as a team the same as on a paper ballot. (see 2. a. on page 33) The voter must vote for a team by pushing down one candidate pointer under the office.

In presidential primaries, voting for presidential preference or no preference is the same as for paper ballots, except that a pointer is pushed down instead of a cross drawn. A voter may vote for an entire slate of town committee candidates by pulling the group lever at the left of the machine. He may vote for individual candidates by pushing down the candidate pointers.

After he has finished voting, the voter must push the large red handle back to the left to register his vote and to open the curtains.

3. How to Vote - By Write-in (Candidate's Name Not on Ballot)
(see XVI. A. 6. b. on page 155, B. 10 on page 170, C. 4. on page 185, and D. 3. e. (2) on page 211 for details concerning valid write-in votes)

a. paper ballots [53:70E; 54:42,77,78; Regs. 51.03(10)]

Blank spaces shall be left at the end of the list of candidates for each office equal to the number to be elected thereto, in which the voter may insert the name and address of any person not printed on the ballot for whom he desires to vote for such office; provided that a mistake in stating the address of such person shall not invalidate a vote if the address stated is sufficient to indicate the person for whom the vote was intended. [54:42] The vote may be cast by attaching a preprinted sticker or by writing the name and address of the candidate in the space provided therefor. A cross may be added in the box at the right of the name but is not required. [54:77; Regs. 51.03(10)]

At presidential elections, a vote by sticker or write-in in the blank space at the end of the list of names of presidential and vice-presidential candidates may be cast for those candidates whose names are contained in lists filed with the state secretary under the provisions of 54:78A; provided however, that in such case, the voter shall list only the surnames of the candidates for president and vice-president. [54:78]

At gubernatorial elections, a voter may attach a sticker or write in the name and residence of any person for either governor or lieutenant governor in the blank space provided therefor; provided, however, that no such inserted name may be that of a candidate whose name is

printed upon the ballot as a candidate for the office.
[54:78]

At presidential primaries, the voter may insert a write-in vote for the office of presidential preference in the space provided on the ballot under that office. However, he has considerable leeway in the form of the name written in. He may use any form of the candidate's given or surname, the initials, or a well known nickname, provided the voter's intent is clear. [53:70E]

b. punch card ballots [54:33E; Regs. 54.03(10)]

If a voter wishes to vote for a candidate whose name is not printed upon the official ballot for an office, he may write in the name and address of the candidate of his choice or may affix a sticker containing such name and address inside the gray write-in envelope provided with his ballot. [54:33E] The office for which the vote is intended must also be entered. [Regs. 54.03(10)]

The voter should open the flap of the gray envelope and, using the pencil provided in the marking compartment or his own pen or pencil, enter the title of the office in the first column. The name and address of the candidate should be entered in the second column. Or he may attach a sticker in a space provided for write-in votes. If the office title is not included on the printed sticker, the voter must enter it. Marking a cross at the right of the candidate's name is not required. (see 54:33E; 1985:537)

The requirements for casting write-in votes for president/vice-president, governor/lieutenant governor and for presidential preference are the same as outlined in 3. a. on page 36, except that the gray write-in envelope must be used and the office title must be entered as well as the candidate's name.

c. voting machines [54:33A; Regs. 52.03(15)]

Voting machines shall be provided with convenient spaces where the name of a person may be written in or a sticker affixed by a voter who desires to vote for a person whose name does not appear on the voting machine ballot labels. A voter may cast a write-in or sticker vote in the space provided. [54:33A; Regs. 52.03(15)]

The spaces for write-in voting, commonly called write-in slots, are at the top of the machine above the question row. To cast a write-in vote for a given office, the voter must push up the slot cover having the same number as that appearing on the office ballot label just above that office

title. If an office has more than one number on the label because more than one column is used, a slot having any of the numbers may be used to cast a write-in vote for that office. For example, if the office of moderator has 4 candidates, the numbers 1 through 4 will appear above the title on the office label. The voter may cast a write-in vote for moderator in any slot numbered 1 through 4.

After pushing up the appropriate slot cover, the voter should use the pencil provided in the machine at the left, or his own pen or pencil, to write, on the rectangle of paper revealed, the name and address of the candidate for whom he wishes to vote. Or he may attach a sticker containing the name and address of the candidate. No office title needs to be written in since the slot number is printed on the write-in paper and will indicate the office.

Once the slot cover has been pushed up, all candidate pointers for that office will be locked if one is to be elected. If two are to be elected, one candidate pointer may be pushed down under that office or an additional write-in slot may be pushed up to vote for a second candidate for that office.

The requirements for casting write-in votes for president/vice-president, governor/lieutenant governor and for presidential preference are the same as outlined under 3. a. on page 36, except that the write-in slots must be used.

4. Time in Marking Compartment Limited [54:70,82; Regs. 51.03(20), 52.03(10), 54.03(20)]

Every voter shall mark and deposit his ballot without undue delay. Regardless of the type of voting system used, if all compartments are in use and voters are waiting, no voter shall occupy a voting compartment more than 5 minutes. [54:82; Regs.] If there is a line of voters at the time the polls are closed, the voters shall have 5 minutes in which to cast their votes after the last voter in line has entered within the guard rails. [54:70] Usually voters require less than 5 minutes to vote at all elections and primaries except a November state election when there are a number of ballot questions. (see IX. K. LONG VOTER WAITING LINES on page 118)

Note: If there are no waiting voters, a voter may be allowed more than 5 minutes in a compartment, but not more than 10 minutes within the guard rails. (see C. 6. on page 42)

It is suggested that discretion be used in enforcing the time limit, particularly if the voter is elderly, handicapped or has some difficulty in reading. Election officers may ask a

voter who is taking an unusually long time if he needs instructions or assistance.

5. Number of Voters Within Guard Rail Limited [54:70; Regs. 51.03(21), 52.03(17), 54.03(21)]

In paper ballot and punch card towns, no more than 4 voters in excess of the number of marking compartments provided shall be allowed at one time within the guard rail. For example, if there are 10 voting booths in the polling place, up to 14 voters may be within the guard rails at one time. [54:70; Regs. 51.03(21), 54.03(21)]

In voting machine towns, the number of voters allowed within the guard rails shall not be more than twice the number of voting machines provided. For example, if there are 10 voting machines in the polling place, up to 20 voters may be within the guard rails at one time. [54:70; 52.03(17)]

6. Penalties [56:25,29]

The penalty on whoever allows the marking of his ballot to be seen by any person for any purpose not authorized by law is a fine of not more than \$100.00 or imprisonment for not more than 6 months. [56:25]

The penalty for trying to induce a person, before depositing his ballot, to disclose how he will or has voted is a fine of not more than \$500.00 or imprisonment for not more than 1 year. [56:29]

The penalty for wilfully or without lawful authority hindering, delaying or interfering with a voter while within the guard rail or while marking his ballot or voting is a fine of not more than \$500.00 or imprisonment for not more than 1 year. [56:29]

C. CHECKING OUT VOTERS (PAPER BALLOT AND PUNCH CARD TOWNS)
(Voting Machine Towns: see Note: under 5. a. on page 41 and 6. on page 42)

After marking and folding his paper ballot, or punching and enclosing his punch card ballot in the gray write-in envelope, the voter must go to the election officers at the check-out table.

1. Voter to Give his Name and Residence [53:37; 54:83; Regs. 51.03(14), 54.03(13)]

The voter shall give his name and, if requested, his residence to one of the officers in charge of the ballot box. [53:37; 54:83] The regulations require that the election

officer in charge of maintaining the voting list at the check-out table shall ask for the voter's name and address. [Regs. 51.03(14), 54.03(13)] As a practical matter, both the name and address are needed to find the voter's name and most voters volunteer this information without being asked. If the voting list is arranged by streets, the voter should give his street address first, then his name.

The election officer shall distinctly announce the voter's name and address. [53:37; 54:83]

2. Election Officer to Look for Name

The election officer in charge of the voting list, must look for the voter's name being certain to search all supplements as well as the main voting list.

If the name is not found, the officer should search the lists again. If still not found, the warden should be called to the table. The voter may have been checked in on a warden's or listing error certificate or on a certificate of supplementary registration and the copy not given to the officers at the check-out table. (see V. OMITTED VOTERS on page 44)

If the name is found, proceed as outlined below.

3. Election Officer to Announce Name and, if a Primary, the Party

If the voter's name is found, the election officer must repeat it loudly and clearly. [53:37; 54:83; Regs. 51.03(15), 54.03(14)] (see Note under IV. A. 3. on page 29 concerning announcing the voter's name twice)

In a primary, if the voter's party enrollment is shown on the voting list, the officer in charge of that list shall also distinctly announce the party and the officer in charge of the ballot box should check the ballot before it is deposited, to be certain it is of the political party in which the voter is enrolled. If the party enrollment is not shown on the voting list, the officer in charge of the ballot box shall announce the party whose ballot the voter is about to deposit. [53:37; Regs.]

4. Election Officer to Mark Voting List [53:37; 54:83; Regs. 51.03(16), 54.03(15)]

The officer in charge of the voting list shall check the voter's name by marking it on the list. [54:83; Regs.] In a primary, the party enrollment must also be recorded if it does not already appear. [53:37; Regs.]

5. Voter to Deposit Ballot

a. paper ballot [54:83; Regs. 51.03(17)]

After his name has been marked on the voting list, the voter must deposit his ballot in the ballot box with the official endorsement (signature) uppermost and in sight. [54:83] The regulations require that the election officers ensure that the voter places his ballot face up into the opening of the box so that cancellation will appear on the side bearing the endorsement. On occasion, a voter will need to be told to turn his ballot over or around so it will be deposited correctly.

The officer in charge of the ballot box, not the voter, should turn the handle to crank the ballot in.

Note: No ballot without the official endorsement shall be deposited in the ballot box unless substitute ballots were used due to the loss, destruction or theft of the original ballots. (see 54:61) [54:83]

b. punch cards [Regs. 54.03(16),(17)]

After the voter's name has been marked on the voting list, the stub must be torn off the card.

If the ballot consists of only one punch card the election officer must either tear off the stub or instruct the voter how to tear it off. In some towns, the election officers always tear off the stub for the voter since voters sometimes have difficulty with this procedure and damage the card.

If the ballot consists of more than one punch card, the election officer must tear off the stubs and immediately count the stubs to ensure that the correct number of cards are in the envelope. However, if the voter has already torn off the stubs, the election officer must examine the envelope, without ascertaining how the voter has voted, to ensure that it contains the proper number of cards.

In all cases, the election officer shall ensure that the stub is bent down and torn cleanly from the card. [Regs. 54.03(16)] The stubs may be placed by the election officers in the envelope or box provided at the check-out table. In some towns, these stubs are not kept.

The voter then must place the gray envelope containing the punch card(s) in the ballot box opening. If one side of the ballot card is blank, the election officers shall ensure that the blank side of the ballot card shows through

the window in the gray envelope for proper cancelling. The voter must place his ballot in the ballot box with the envelope window up. [Regs. 54:03(17)]

The officer in charge of the ballot box, not the voter, should turn the handle to crank the ballot into the box.

c. penalties [56:12,50,55]

The penalty on an election officer for knowingly refusing to receive a ballot offered by a person qualified to vote is a fine of not more than \$500.00 or imprisonment for not more than 6 months. [56:12]

The penalty on whoever, if not authorized or with intent to defraud, deposits a ballot in the ballot box is imprisonment for not more than 2 1/2 years. [56:50,55]

6. Voter to Leave Space within Guard Rails [54:33C,82,84]

After voting and depositing his ballot, the voter should leave the space within the guard rails immediately and cannot be permitted to enter that space again during the election [54:84], except to assist another voter upon request. (see IX. B. VOTER REQUESTS ASSISTANCE on page 78)

Note: In voting machine towns, after registering his vote and emerging from the voting machine, the voter should leave the space within the guard rails immediately since there is no check-out process. He cannot be permitted to enter the space within the guard rails again during the election, except to assist another voter. [54:33C] The 10 minute time limit below also applies to voting machine towns.

A voter shall not remain within the guard rails for more than a total of 10 minutes including the time required to vote and to deposit his ballot. The 10 minute time limit applies even if there are no voters waiting in line. [54:82] (also see IV. B. 4. Time in Marking Compartment Limited on page 38)

Voters sometimes prefer to wait inside the guard rail for a spouse or friend who has not yet finished voting. This may be permitted for a reasonable length of time as long as it does not inconvenience other voters. On occasion, two voters carry on social conversations within the guard rails after they have voted. Election officers should ask such voters to move outside.

In any case, political conversations within the guard rails concerning candidates or issues on the ballot should be prohibited, either among voters or among election officers. Such conversations may well upset some voters and may influence others in the process of voting.

D. PARTY CHANGE CARDS (ALL TOWNS - PRIMARIES ONLY) [53:38] (see PREPARING ELECTION MATERIALS, VI. MISCELLANEOUS, A. 8. in Volume 3 of this series)

Party change cards must be available at the polling place at all primaries. They may be placed on the check-out table but the voter should fill out his card outside the guard rails and then transmit it to the town clerk. The voter should enter in the spaces provided on the card, his printed name as registered, his street address, the party in which he has voted at the primary (or the party in which he is enrolled if he decided not to vote) and the party to which he wishes his enrollment changed or that he wishes to be unenrolled. The voter must also sign the card as he is registered. If the double post card form is used, the voter should enter his name and address on the receipt portion of the card.

In some towns, the voters are permitted to leave their completed and signed cards with the election officers at the check-out table rather than being required to transmit them by mail or in person to the town clerk.

In other towns, a separate table is provided in the lobby for party change cards. A box may be provided for the completed cards. However, in this case usually a registrar, assistant registrar or other person designated by the town clerk or registrars, is assigned to the table to distribute cards, assist voters in completing them and receive the completed and signed cards. As time permits during the day, this person may organize the cards in the same order as the voters' names appear on the voting list to save time in processing them after the primary. In some towns, written instructions are provided for the person assigned to the table. (see sample instructions on page 255)

53:38 requires that the registrars notify each voter who transmits a party change card on election day, that it was received and that the change requested has been made. These receipts may be given to the voter immediately after he has completed and signed his card at the polls and if so, a receipt is not required to be mailed after the primary. The person at the party change card table should enter the voter's name and enter or check the appropriate party or unenrolled before giving it to the voter. The voter's address may be entered on the receipt, but is not necessary. (see PREPARATION OF ELECTION MATERIAL, VI. MISCELLANEOUS, A. 9. in Volume 3 of this series) If a receipt is given at this time, it is suggested that the person assigned to the table initial each party change card so that those processing party changes after the primary will know that this step has already been taken. (see AFTER ELECTION DAY, VIII. PROCESS PARTY CHANGES on page 318)

V. OMITTED VOTERS [51:59; 54:67; Regs. 51.03(5), (5A), (5B), 52.03(5), (5A), (5B), 54.03(6), (6A), (6B)]

No person shall vote if his name is not on the voting list unless he presents a certificate from the registrars of voters as provided in 51:59. [54:67]

Note: 54:67 also applies to certificates of supplementary registration issued under 51:51. (see VI. SUPPLEMENTARY REGISTRATION on page 63)

Two types of certificates are provided for in 51:59, a certificate signed and issued at the polling place by the presiding officer and a certificate signed and issued, usually at their office, by the board of registrars. In this manual the term "warden's certificate" is used for that issued at the polling place by the warden and the term "listing error certificate" is used for that issued by the board of registrars. A single combined form may be used. (see PREPARING ELECTION MATERIALS, IV. CERTIFICATES AND AFFIDAVITS, A. 1. in Volume 3 of this series)

The procedures appearing in 51:59 and in the Regulations are to be used for persons whose names have been erroneously omitted from the voting list or have erroneously been removed under 51:37 or 51:38. (see PREPARING ELECTION MATERIALS, V. VOTING LISTS in Volume 3 of this series) The details of procedures will depend upon the type of certificate and the specific circumstances of each case.

Note: The procedures required by 51:59 and the Regulations are also to be used for errors in a voter's name, address and party enrollment appearing on the voting list. (see VII. ERRORS ON VOTING LIST on page 64)

A. AT THE POLLS

If the name of a person desiring to vote is not found on the voting list at the check-in table, the election officers should call the warden to the table immediately. They should not attempt to resolve the problem themselves, except as outlined in IV. A. on page 28.

1. Warden to Look at Voting List

Before proceeding further, it is suggested that the warden look at the voting list and all supplements himself. He should be certain that the name is not on the voting list or, if crossed out, that it does not appear elsewhere on the list and that the person does not have a certificate of supplementary registration. (see VI. on page 63)

Note: If the town has polling places in different locations and it appears that the voter is in the wrong precinct, it is suggested that the warden look at the voting list for the

other precincts if available at the polls, or call the office to determine whether or not the voter is listed there before sending the person to another precinct.

2. Warden to Obtain Information

The registrars will need to know certain information about the person asking to vote in order to determine his eligibility. In some towns, the person is asked at the polling place to complete and sign a warden's certificate form, an application to have his name returned to the voting list or a census form containing the information needed. (see PREPARING ELECTION MATERIALS, IV. CERTIFICATE & AFFIDAVITS in Volume 3 of this series) In other towns, the warden notes the information on a scratch pad at this time.

The following information should be obtained:

- name, including previous name, if any
- current address
- address on January 1, current year. The voter may be asked if he was temporarily out of town during the time the most recent town census was taken. If so, the warden should make a note of this.
- address on January 1, last year
- date of registration, if known. If not known, ask the voter to give an approximate date, particularly if he registered recently.
- occupation
- date of birth

For state primaries and elections and for presidential primaries, if the omitted voter moved to another Massachusetts community but did not register there, the date on which he moved may determine eligibility and the warden should also obtain this information. Note that in most cases, the names of voters who moved within 6 months prior to these primaries or elections would still appear on the voting list. (see 51:1, last sentence)

Note: In some towns, occupation or date of birth are not obtained at this time. However, both are helpful in identifying the person. Also, if he is a student or in the armed forces, his occupation may indicate that his name was dropped in error.

The penalty for giving a false answer to or making a false oath before the warden, is a fine of not more than \$100.00 or imprisonment for not more than 6 months. [56:25]

3. Requesting Written Identification [54:76B; Regs. 51.03(5),(5B), 52.03(5),(5B), 54.03(6),(6B)]

If authorized by the town clerk, an election officer may request any voter to present written identification whether or not his name is found on the voting list. [54:76B; Regs. 51.03(5B), 52.03(5B), 54.03(6B)] Authorization may be verbal or written.

However, in many towns, written identification is usually requested only from omitted voters and in this case, prior authorization by the town clerk is not necessary. [Regs. 51.03(5), 52.03(5), 54.03(6)]

Requesting identification from voters is not required either by the General Laws or by the Regulations. In many towns, particularly those in which election officers personally know most of the voters, it is seldom, if ever, requested.

In any event, requests shall not discriminate in any way, but shall be entirely random, consistent, or based on reasonable suspicion. [Regs. 51.03(5B), 52.03(5B), 54.03(6B)] It is essential that, in requesting identification, the warden carefully avoid the appearance that he is acting on whim or is discriminating against certain voters. Otherwise, charges that civil liberties have been violated may result.

a. consistent requests

Under the Regulations "consistent" requests for identification would be those made according to a defined method, pattern or general rule including the following:

- all persons whose names do not appear on the voting list are asked for identification before the warden contacts the office. In this case, the warden should note on the certificate form or scratch pad the type of identification shown or that identification was not provided.

OR,

- if, after the warden contacts the office, it is determined that the person was dropped from the list more than one year previously, identification is requested before the warden issues a certificate.

OR,

- identification is requested of all omitted persons who claim they were temporarily out of town, particularly if the person's January 1st address was out of

town or he states that he has lived in several locations during the last year or two.

b. reasonable suspicion

Under the Regulations "reasonable suspicion" means that suspicion must be based on reasonable evidence rather than on instinct or whim. Examples would include the following:

- the person was evasive or vague in answering the warden's legitimate questions,

OR,

- the person responded to the questions "So, who wants to know," or "I'm not going to tell you that," or "I don't have to answer such questions," etc., particularly if the response was in a belligerent or defensive tone,

OR,

- the person appeared unusually nervous. Caution should be exercised in this case, however, since young voters are sometimes very nervous when being questioned, particularly if they have never voted before or if they are not certain of their eligibility.

c. requests at random

Examples of requesting identification at "random" include the following:

- every 10th person who appears at the polls to vote is asked for identification,

OR,

- identification is requested of every 10th person between the hours of 6 A.M. and 8 A.M., every 8th person between the hours of 8 A.M. and 10 A.M., every 12th person between the hours of 10 A.M. and noon, etc.

Note that the random procedure is usually applied to persons whose names are on the voting list when a deterrent to fraudulent voting is considered advisable. However, if applied to every 10th, 8th or 12th person who appears to vote, omitted voters would also be included.

d. suitable written identification

Written identification is considered suitable if it contains the person's name and a current address in the town. It may be one of the following:

- current Mass. driver's license
- other current I.D.
- recent utility bill
- recent rent receipt. In some towns, a rent receipt is not considered suitable unless it contains the landlord's printed letterhead.
- copy of a current lease
- copy of affidavit of registration. In this case, the date on the affidavit should be checked to be certain it is before the close of registration. If identification is requested at the time of registration and noted on the affidavit, check whether or not suitable identification was shown at that time.
- any other printed identification containing the person's name and address such as, a current bank book or statement, check book, or a recent letter mailed to the person showing a postmark.

Note: If an election officer knows the person, that he now lives at the address given and has lived there continuously, this is usually accepted in lieu of written identification.

4. Warden to Contact Town Clerk's/Registrars' Office

Whenever the name of a person appearing at the polling place to vote in a primary or election, does not appear on the voting list, the presiding officer at the polling place shall attempt to identify the person and his right to vote by communicating with the board of registrars by telephone or other means at his disposal. [51:59; Regs. 51.03(5)(a), 52.03(5)(a), 54.03(6)(a)] The warden should not make a determination of eligibility himself unless specifically authorized by the registrars under certain circumstances. (see B. 3. b. on page 53) He should give all the information he has obtained to the person he contacts at the office.

B. AT THE OFFICE

1. Receive Information from Warden

The person receiving the warden's call should write down all the information the warden has obtained. In some towns, a form is used to record the information similar to that used at the polling place but containing items to be checked to

indicate where the person's name was found. (see sample form on page 256) Whether or not a form is used, it is suggested that a record of the information obtained from the voter be kept since it may be needed after the election. (see AFTER ELECTION DAY, I. ESCROW BALLOTS on page 277 and XI. RECOUNTS on page 339)

2. Search the Records

All available voting, registration and census records for at least the previous three years must be searched to determine whether or not the person was a registered voter in the past. [Regs. 51.03(5)(b); 52.03(5)(b); 54.03(6)(b)] In many towns, records older than three years are also searched since there is no limitation in the General Laws or regulations on the age of the records to be searched.

If an office form is used, mark an X opposite the records searched without finding the name and a check mark opposite the record in which the voter's name was found. In most cases, the person's registration can be established by searching the affidavits of registration or the dropped voter lists.

a. affidavits of registration

It is suggested that the current active affidavits of registration be searched first to determine whether or not a clerical or computer error has been made. If the name is found on an active affidavit, the person's eligibility to vote is established unless there is some reason to believe that the card should have been removed from the file.

If the address on the affidavit is different from the current address reported by the warden, check the voting list at the address shown on the affidavit. If the name is found at that address, inform the warden of the address where the voter is listed and from which he must vote, unless the address should have been changed. No certificate is needed in this case.

Note: In precinct towns, if the voter moved to a different precinct, the address should have been changed if 1) he filed a written request before the close of registration, or 2) the election is being held after June 1st and the current census report indicated his move to the new precinct (see 51:3), or 3) a prior year's census report indicated he had moved to the new precinct but the voting list was not corrected that year. In this case, he should be permitted to vote by certificate in his new precinct. (see PREPARING ELECTION MATERIALS, V. VOTING LISTS in Volume 3 of this series) Call the voter's former precinct

and instruct the warden to cross the voter's name off the voting list there.

If the name is not found, search the affidavits received after the close of registration, particularly if the warden reports a date of registration on or about the closing date. If one is found, check the date carefully. If before the close, the affidavit was not processed due to clerical error, and the person's eligibility to vote is established. If after the close, the warden should inform the person he cannot vote until the next election because he registered too late. The warden should, however, inform the person that he may mark an escrow ballot if he wishes. (see IX. E. ESCROW BALLOTS on page 85) For state primaries and elections and presidential primaries, the person may be eligible to vote in his former town, if in Massachusetts. Suggest that he call the clerk of that town.

In some towns, when dropped voters' affidavits are removed from the active file, a notation is made showing why the voter was dropped such as, "Dropped [year]," "Registered in [name of town or state]," "Deceased [date]," or the drop notices returned by the post office are filed with the affidavits. In this case, search the dropped voters affidavits. If the person's affidavit is found, the procedures to be used are the same as for a name found on a dropped voter list. (see b. below and 3. on page 52)

b. dropped voter lists

Search the dropped voters' lists starting with the most recent and working backwards in order by year. For the 1986 state primary and election, the dropped voter lists at least for 1986, 1985 and 1984 should be searched. In most towns, the 1983 dropped voter list would also be searched.

If the name is found, first determine if the voter was dropped because a notice of registration elsewhere or death certificate was received. Unless notes to show why the voter was dropped are made directly on the dropped voters' lists, check the notices or certificates themselves. Or, if notes are made on the inactive affidavit cards or the master voting list, these records may be searched.

- death certificate received

If the name was crossed out or removed from the voting list because a death certificate was received and that person appears at the polls on election day, it is very likely that the name was crossed out or removed in error. In this case, check the date of birth and occupation given by the warden against

that information entered on the death certificate. This should substantiate the clerical error and establish eligibility.

If, however, no clerical error was made and the person is actually attempting to vote in a false name, the warden should immediately direct the police officer to arrest him. (see 56:57) Before taking such action, the warden must be certain of the facts either by his own or an election officer's personal knowledge and be certain that there is no possibility of confusion caused by having two voters with the same or a similar name. Otherwise, charges of false arrest may result.

- notice of registration elsewhere received

If a notice of registration elsewhere was received, check the date the person registered in his new town. If it was before the close of registration, a certificate should not be authorized. The warden should inform the person that he must vote in the town in which he is currently registered, or may mark an escrow ballot in your town. (see IX. E. ESCROW BALLOTS on page 85)

For state primaries and elections and presidential primaries, if he registered elsewhere after the close of registration, the voter's name should not have been removed from the voting list and his eligibility to vote is established, provided he moved to another Massachusetts community. (see 51:1, last sentence)

However, if a person moves out of state, or for town elections, if he moves out of town, he is ineligible to vote in the town from which he removed as soon as he moves, unless the move is a temporary one. In this case, if a notice has been received showing a date of registration at any time before election day, a certificate should not be authorized.

Note: If no notice of registration has been received, but an election officer has personal knowledge that the person has moved, a certificate might be authorized but the ballot should be challenged to permit the question of eligibility to be finally decided later. Or, the person might be refused a certificate but, in that case, he should be permitted to mark an escrow ballot.

- no notice of registration elsewhere received

If no notice of registration elsewhere has been received, note the year in which the person was dropped since the procedures used may depend upon the year. (see 3. b. and c. on pages 53 and 55)

c. other records

If the person's name is not found on either of the records under a. and b. above, other records should be searched.

In some towns, the alphabetical section of the street lists are searched next, starting with the most recent and working backwards in order by year. If the name is found, check to be certain that there is a star or other symbol next to it to indicate voter registration.

The name may be found on a street list at an address different from the current address reported by the warden. If so, look at the current voting list to determine if the person is listed at the previous address since he must vote where listed unless his address should have been changed. (see Note: under 2. a. on page 49) The warden should send the voter to the correct precinct, if necessary.

Previous voting lists should also be searched. The person's name may have been dropped by a clerical or computer error which has not yet been corrected.

If the list of absentee ballot applicants from previous years are kept, these records may be searched.

If the name is found as a registered voter on one of these lists, note the year.

3. Authorizing a Certificate

a. standard [Regs. 51.03(5)(b), 52.03(5)(b), 54.03(6)(b)]

The standard to be used in determining whether or not to issue a warden's or listing error certificate is specified in the Regulations. The registrars must determine a person to be entitled to vote whenever he has registered to vote in the town in the past and presents written identification showing current residence in the town (or at a state primary or election, residence within the previous 6 months), unless they affirmatively establish that he has not in fact continuously resided in the town. The registrars cannot use failure to be included in the annual

street listing or failure to respond to a drop notice as evidence of non-continuous residence.

The receipt of a notice of registration elsewhere affirmatively establishes non-continuous residence. Excise tax records in the tax collector's office showing that the person has registered his car elsewhere, or a notice from the town's water or light department showing that his service was discontinued affirmatively establish that residence has not been continuous. In addition, statements made by the person himself that he has established residence elsewhere, such as that he registered his car, opened a bank account, etc. in another community would also affirmatively establish non-continuous residence. In such cases, the registrars should refuse to permit the person to vote either under a warden's or listing error certificate, even if the person shows identification containing a current residence in the town. However, the person should be permitted to mark an escrow ballot if he wishes. (see IX. E. ESCROW BALLOTS on page 85)

Note that a majority of the registrars should make the determination of eligibility, rather than the town clerk acting alone, unless the registrars have formally voted prior to the election to delegate this statutory duty to the town clerk and have established guidelines under which the determination is to be made.

b. warden's certificate

Clearly, a warden's certificate should be authorized if it is determined that the person's name was not entered on, crossed out, or dropped from the voting list simply by a clerical or computer error.

Under other circumstances, the specific procedures vary among towns.

(1) name dropped within one year

In many towns, if the person's name was dropped from the voting list within one year prior to the election, a warden's certificate is authorized unless the information obtained by the warden indicates that the person is not a resident of the town, or for state primaries and elections, that he has not been a resident for more than six months. In that case, the registrars may refuse to authorize a warden's certificate. (see c. listing error certificate on page 55)

In some towns, if suitable identification has been provided, a warden's certificate is authorized. If,

however, the person does not have suitable identification with him and cannot or does not want to go back home to get it, the warden's certificate is authorized but the warden is instructed to challenge the voter. In this case, the reason for challenge to be written on the ballot would be "voter dropped, no I.D." (see IX. D. CHALLENGED BALLOTS on page 80)

In some towns, the warden at the polling place is provided with the most recent list of dropped voters and is specifically authorized by vote of the board of registrars to issue a certificate to a person whose name is found on that list without first calling the office. Suitable identification is required and if not provided, the voter is challenged. If this procedure is used, however, entries should be made on the dropped voter list to indicate those voters dropped because a notice of registration elsewhere or a death certificate has been received.

In any case, the registrars may require that the person sign an affidavit of continuous residence, but such an affidavit is sometimes required only if the person was dropped more than one year prior to the election. (see (2) below)

(2) name dropped more than one year ago

In some towns, if the person's name was dropped from the voting list more than one year prior to the election, a warden's certificate is authorized if the registrars believe that continuous residence has been maintained based upon only the person's statements. He is not required to sign any form or affidavit.

Examples:

- The person is listed as a student on the street list of the year prior to being dropped from the voting list and he has told the warden he is currently a student. He stated that during the school year, he lives in a dormitory or in an apartment near the school and during school vacations, he returns to his parents' home in your town.
- The person stated that he is regularly out of town during January and February each year.
- The person stated that he has moved often for the past two or three years, not staying in any one place more than a few months.

- The person stated that he has been on a 3 year assignment at his company's research facility in New Mexico and has rented his home during that time. He is now working back at the main office in Boston and no longer rents his home.

In some towns, the registrars require that the person sign an application, warden's certificate form or census form under the penalties of perjury and the registrars rely on the information entered provided it shows both a current and previous address in the town.

The registrars may require the person to sign an affidavit of continuous residence under the penalties of perjury. (see PREPARING ELECTION MATERIALS, IV. CERTIFICATES & AFFIDAVITS in Volume 3 of this series) The person may present written proof of continuous residence such as utility bills, rent receipts, etc. for the years since he was dropped, but he should not be required to leave the polls to obtain such evidence. Signing an affidavit is sufficient and if affidavits are to be used, they must be available at the polls.

The registrars may also require that suitable written identification be presented. Note that if such identification is provided, the registrars cannot refuse to authorize a certificate unless they affirmatively establish that residence has not been continuous. (see 3. a. on page 52)

If no identification is provided, some registrars authorize a certificate, but require that the ballot be challenged. (see IX. D. CHALLENGED BALLOTS on page 80)

c. listing error certificate

If a warden's certificate has not been authorized, the warden must inform the person of his right to request permission to vote from the registrars. [51:59; Regs. 51.03(5)(a), 52.03(5)(a), 54.03(6)(a)] The warden must also inform him of his right to mark an escrow ballot at the polls if he prefers to do so instead of requesting permission to vote from the registrars. (see IX. E. ESCROW BALLOTS on page 85) [51:59A; Regs. 51.03(5A), 52.03(5A), 54.03(6A)]

The warden should avoid arguing with the person at the polls but simply state that he was not authorized to issue a certificate and give the reasons. If the voter wishes, the warden must provide him with an escrow ballot. Otherwise, he should direct him to the town clerk's/registrar's office (unless the registrars are at the polling place).

When the person appears at the office, first have him check the information you received by telephone from the warden. If not correct, you may be able to determine quickly that the person is eligible to vote.

The following are the most common reasons that a person requests permission to vote from the registrars after a warden's certificate has been refused.

(1) no record of registration found

A person informed by the warden that no record of registration can be found, may be positive he has registered or has previously voted in the town. He may have been unwilling to believe the warden's report or wants to have the records checked again.

If he registered after the close, show him the date on his affidavit of registration and explain the General Laws provisions relative to the close of registration. (see 51:26) If necessary, show him a copy of the registration session notice or other record showing the closing date. If a state primary or election or the presidential primary is being held and he moved from another Massachusetts community within the previous 6 months, inform him that he may still be eligible to vote in his former town. Suggest that he call the town clerk there.

If you cannot find any affidavit of registration for the person, try to determine as closely as possible when he registered. Ask if he can remember where he registered, at the town hall or at a special registration session elsewhere. This may help clarify the date so you can search the appropriate records.

Example: If he believes he registered in late September at the library, you may have a partial supplementary list including voters who registered at that time. If so, search this list to see whether a clerical error was made in transferring the names to the supplement prepared for the election. The affidavit of registration may have been mislaid or misfiled.

If you have maintained the general register of voters, that may be searched. However, unless the registration date is known with some accuracy, the search may take a considerable time. In many towns, the voter is permitted to search the register himself since office personnel are usually very busy on an election day. If he finds his signature and registration record showing a recent date in the register, his

eligibility is probably established. If so, ask him to fill out and sign a new affidavit. To confirm his identity, compare information and the signature in the register with that on the affidavit. Note on the new affidavit "originally registered [date] per general register" or words to that effect. If the original affidavit is found at a later time, it should be attached to the new one and both placed in the active card file.

If, however, the register shows a date prior to the most recent annual census, it is suggested that you check the records of registration elsewhere to be certain that his name was not removed from the voting list for that reason. If no notice of registration is found, the person may then complete a new affidavit of registration. Proceed as outlined above.

The person may also be permitted to examine the dropped voter lists, street lists or previous voting lists and finding his name in one of these records may establish his eligibility to vote. It is suggested however, that only office personnel conduct a search in the active or inactive registration card file.

If, after searching the records, no record of registration can be found, the person should be permitted to mark an escrow ballot at the office if he wishes. (see IX. E. ESCROW BALLOTS on page 85)

(2) no suitable I.D.

If the person can produce no suitable identification and the registrars question the person's eligibility, they may refuse to authorize a warden's certificate. Or, if the registrars authorized the warden's certificate but required that the ballot be challenged, the person may prefer to seek permission to vote from the registrars rather than voting by challenged ballot at the polls.

In these cases, if the registrars determine by obtaining additional information directly from the person that he is currently a resident and that he has continuously resided in the town, a listing error certificate should be authorized.

The following examples illustrate typical information obtained from persons requesting permission to vote from the registrars and how registrars would usually decide the cases.

In most towns, the registrars would authorize a listing error certificate under the following circumstances:

- A student has been living at or near the school he attends and was dropped from the census by his parents some years ago. He is still a student and has only a school I.D. without an address. During school vacations he has held jobs either in his college town or in other communities. He does not own a car and has no bank account. His parents still live in town.
- A student was away at school when his family moved out of town, the entire family was dropped from the census and members who were registered voters were dropped from the voting list. His parents went to two different communities. During school vacations he sometimes visits one parent, sometimes the other. He does not know where he will live after graduation, but he is not planning to live in his college town. He says it is not likely he will return to your town or go to live with either parent. He does not own a car, but has a small bank account in his college town.
- A retired couple were dropped from the voting list some years ago. Since retirement, they have regularly gone to Florida at the end of November and return at the end of March. They did not respond to the drop notice. They have not wished to vote since they were dropped. They did not bring any suitable I.D. with them to the polls, do not have time to go back home to get some and object strenuously to voting by challenged ballot.
- A serviceman was dropped from the voting list 3 years ago. He has not lived in your town for a long time. The last time he voted in person was 4 years ago when he was in town visiting his parents. He voted by absentee ballot as a non-registered specially qualified voter at the last state election. He stated that he has just recently moved back into your town, but has not had time to obtain any I.D. with his current address. He thought that since he voted at the last state election, he was still on the voting list.

In most towns, the registrars would not authorize a listing error certificate under the following circumstances:

- The person stated that he and his wife were separated 2 1/2 years ago and are in the process of getting a divorce. He moved out of town and his wife stayed in their jointly owned house. Two years ago, he was dropped from the census by his wife and subsequently removed from the voting list. He stated that he has lived in a nearby town for 2 1/2 years and is still living there. He intends to move back into town as soon as the property settlement in connection with his divorce is completed.
- the person was dropped from the voting list 4 years ago but was permitted to vote in the presidential election that year by certificate. He was dropped again after the next town census. He appeared at the next presidential election and stated that during the past 4 years he has lived in another town for about a year and then moved to a third town where he has lived since. No notice of registration elsewhere has been received.

In some towns, if continuous residence is uncertain from the information obtained and suitable written identification cannot be produced, a listing error certificate is authorized but the person is first required to sign the affidavit of continuous residence. In other towns, an affidavit of continuous residence is required of all omitted voters, or the certificate is authorized, but the ballot is challenged.

In any case, if the registrars determine that a listing error certificate cannot be issued, the person must be permitted to mark an escrow ballot at the office if he wishes. (see IX. E. ESCROW BALLOTS on page 85)

C. ISSUING CERTIFICATES

1. Warden's Certificate [51:59, first paragraph]

If authorized, the warden must complete and sign the certificate, if this has not already been done. The certificate must include the person's name and residence. The party enrollment, if any, as shown on the record on which his name was

found must also be included for elections as well as primaries. In paper ballot and punch card towns, the prepared certificate should be signed in duplicate. If the ballot is to be challenged, the warden should note "challenged ballot" or CV on the certificate.

If an affidavit of continuous residence was required, the warden should be certain that it has been properly signed and attach it to the certificate.

The certificate should then be given to the election officers at the check-in table and the procedures outlined under IV. should be followed, except that the election officers should make a check mark on the certificate and attach it to the voting list. The warden should challenge the ballot at this time, if required. (see IX. D. CHALLENGED BALLOTS on page 80)

Note: In some towns, the election officers write the name, address and party enrollment on the voting list as well as attaching the certificate. However, the General Laws provide only that the certificate be attached to and considered part of the voting list.

In paper ballot and punch card towns, the duplicate certificate should be given to the election officers at the check-out table before the person appears there to deposit his ballot.

2. Listing Error Certificate [51:59, second paragraph]

The name, residence and party enrollment, if any, must be entered on a listing error certificate, the same as on a warden's certificate. The certificate must be signed by a majority of the registrars. In some towns, the registrars pre-sign a supply of certificates or authorize their signature stamp to be used. In this case, the certificates are completed and issued by the town clerk or an employee in the office after obtaining authorization by telephone from the registrars. Or, the town clerk has been authorized by registrars' vote prior to the election to complete and issue the listing error certificates contacting the registrars on election day.

After receiving his listing error certificate, the voter may choose one of two different procedures as follows.

a. voting at polls

The person receiving the certificate may take it back to the polls and vote there. In paper ballot and punch card towns, the person should be given the certificate in duplicate, one for the check-in and the other for the

check-out voting list. The election officers should follow the procedures outlined under IV. except that a check mark should be made on the certificate and it should then be attached to the voting list. (see Note under 1. above) If the ballot is to be challenged, before giving it to the voter, enter a note to that effect on the certificate to inform the warden.

b. voting at office

If the voter prefers, he may vote in the town clerk's office. In this case, give him the certificate, an absentee ballot, and an absentee ballot envelope. The envelope having "R" at the top may be used. In paper ballot and punch card towns, give the voter two copies of the certificate. In punch card towns, give the voter a gray write-in envelope with his punch card ballot.

In paper ballot and voting machine towns, after he has voted, the voter should fold his paper ballot and seal it together with the certificate(s) in the absentee ballot envelope provided. The town clerk should then write "LISTING ERROR" on the outside of the absentee ballot envelope and, as soon as practicable, deliver it to the proper polling place.

In punch card towns, the voter should place his ballot in the gray write-in envelope. The town clerk should remove the stub or check to be certain the stub has been properly removed. If a Datavote ballot consists of more than one card, the town clerk should check to be certain the correct number of cards have been placed in the envelope. Then, the voter should seal his gray write-in envelope containing the card(s) in the absentee ballot envelope. The town clerk should write "LISTING ERROR" on the outside of the absentee ballot envelope and deliver it to the polling place.

Note: If the ballot cannot be delivered to the polling place in time to be counted there, it may be counted in the office after the polls close. Use the procedures outlined under XXIII. C. ABSENTEE BALLOTS COUNTED IN OFFICE on page 244.

If the ballot is to be challenged, attach a note to that effect to the absentee ballot envelope.

Note: The town clerk may designate one of his employees to handle voting by absentee ballot under a listing error certificate. No oath is required and the affidavit on the ballot envelope is left blank. In some towns, a registrar always handles such voting.

Upon receipt of the envelope, the warden should open it, remove the certificate(s) and the ballot. The voter's name and address should be stated aloud near the check-in table and one certificate should be given to the election officers at that table. If the ballot is to be challenged, the warden should challenge it at this time using the procedures for challenging an absentee ballot outlined under IX. D. CHALLENGED BALLOTS on page 80. In paper ballot and punch card towns, the name and address should also be stated aloud at the check-out table and the duplicate certificate given to the election officers at that table. The ballot should then be deposited in the ballot box.

If a voter is at the polls shortly before they close and cannot get to the office until after they close, he should still be permitted to vote under a listing error certificate if he is found to be eligible. In some towns, the warden provides the person with a signed note to substantiate that he was in line before the polls closed. However, the warden will have called the office to ask whether or not to issue a certificate and this is sufficient evidence that the voter appeared at the polls in time. In this case, the voter should not be permitted to take his certificate back to the polls. If the ballot is to be challenged, it should be challenged at the office prior to giving it to the voter using the procedures outlined under IX. D. CHALLENGED BALLOTS on page 80 except that the town clerk, assistant town clerk, registrar, assistant registrar, or regular office employee should enter the required information on the ballot, administer the oath to the voter, and make the required record.

Note: If the registrars are at the polling place during the election, they usually issue all certificates for omitted voters and only one type of form is required. (see PREPARING ELECTION MATERIAL, IV. CERTIFICATES & AFFIDAVITS in Volume 3 of this series) In this case, omitted voters are not required to go to the office and all certificate voting is done at the polls. The warden as well as the registrars should sign the combined certificate. (see 51:59, first paragraph) Or, if the town clerk is at the polling place and has been provided with pre-signed listing error certificates, he may issue them at the polls if authorized by the registrar. A combined certificate may be used in this case as well but the warden does not need to sign it.

VI. SUPPLEMENTARY REGISTRATION – SPECIALLY QUALIFIED VOTERS

[51.50,51; 54.67; Regs. 51.03(29), 52.03(24), 54.03(29)]

A person whose name does not appear on the voting list may vote if he presents a certificate from the registrars of voters as provided by 51:51. [54:67]

51:50 (as amended by 1985:477) permits those who were included in the definition of specially qualified voters (see 54:103B) throughout the seven days immediately preceding the final time for registration to register to vote up to 4 P.M. on the day preceding the primary or election. These voters must be given a certificate entitled "Supplementary Registration-Specially Qualified Voters." (see REGISTRATION, SPECIALLY QUALIFIED VOTERS in Volume 5 of this series) (see ABSENTEE BALLOTS in Volume 3 of this series for voting by absentee ballot under a supplementary registration certificate)

Upon presentation of the certificate to the presiding officer at the polls, these persons have the same right to vote as any other registered voter. [51:51] The warden should examine the certificate to be certain it has been signed by the registrars, or contains the registrars' signature stamp. If so, a check mark should be made on it. The election officers should attach it to the voting list and permit the person to vote. (see IV. on page 27) In paper ballot and punch card towns, a duplicate of the certificate should be given by the warden to the election officers at the check-out table and attached to that voting list.

If a voter has lost his certificate or has forgotten to bring it with him, the warden should obtain the person's name and address and ask for written identification. The warden should then call the office to verify that a certificate was issued.

If such a call is received, check the affidavit of registration on file in the office to be certain the name and address are the same as that reported by the warden. If so, a warden's certificate may be authorized. The warden should enter the name, address and party enrollment, and note "Supplementary Registration Certificate lost [left at home]" or words to that effect.

The person should be required to go to the office to obtain another certificate if his identity is in doubt and in this case, his signature, date of birth and occupation should be compared to that on his affidavit of registration.

VII. ERRORS ON VOTING LIST [51:59; Regs. 51.03(5), 52.03(5), 54.03(6)]

A. ADDRESS ERROR (see also PREPARING ELECTION MATERIALS, V. VOTING LISTS in Volume 3 of this series)

If a voter whose name appears on the voting list claims an error has been made in his address, the procedures to be used are specified in the General Laws and the Regulations and are similar to those for omitted voters. In some cases, no certificate is needed to correct the error and to allow the person to vote.

The warden should obtain the information outlined under V. A. 2. on page 45 and report it to the office. In many towns, written identification is required showing the address that the voter claims is correct. The date of birth and occupation may be needed to substantiate the voter's identity.

Check the voter's affidavit of registration. If the address, date of birth and occupation on that record agree with the voter's claim, a clerical or computer error has been made. If the address on the voter's affidavit of registration does not agree with the voter's claim, check the most recent census records to determine if the voter moved within the town but the appropriate correction has not yet been made on the voting list.

An error may be corrected and no certificate is needed to permit the person to vote if:

- the voter's name is located in the wrong place on the voting list in the precinct in which he appears to vote; OR,
- the town has no precincts; OR,
- the town is voting by grouped precincts.

However, if the voter moved to another precinct, the address should not be changed on the voting list until after the June 1st following his move unless he files a notice requesting the change. (see 51:3)

Make a note in the office that the voting list to be used in the next election should be corrected, or have the warden include a note with the voting list when it is returned to the town clerk on election night.

Note: In some towns, the certificate procedure is always used for address errors to establish a clear record that the address should be changed on the voting list to be used at the next election. In this case, enter "Address Correction" on the certificate so that those processing the certificates after the election will

know that the voter's name should be moved on the voting list, not added.

In some towns, house numbers are assigned by the town engineering department. Occasionally, a voter uses the subdivision lot number in his address instead of the assigned house number not realizing that they are different. This may cause an apparent error which may be corrected by checking the assessors' maps or consulting with the engineering department. If the voter insists on using a number different from that assigned, suggest that he discuss the matter with the engineering department after voting. The voter should be permitted to vote. No certificate is needed.

See V. OMITTED VOTERS on page 44 for error in address resulting in the name being omitted from the voting list of the precinct in which the voter appears.

B. NAME ERROR (see also PREPARING ELECTION MATERIALS, V. VOTING LIST in Volume 3 of this series)

If a voter whose name appears on the voting list claims an error has been made in his name, the procedures are specified in the General Laws and in the Regulations and are similar to those for omitted voters. However, a certificate may not be needed.

The warden should report the information outlined under V. A. 2. on page 45 to the office, including the correct or new name and the name as it appears on the voting list. In many towns, written identification is requested. The date of birth and the occupation may be needed to substantiate the voter's identity.

1. Voter's Name Changed - Previous Name Listed

If the voter has recently changed his name, he must be registered and permitted to vote in his former name until June 1st of the year following the change. (see 51:2) In this case, a certificate is not required. The warden should inform the voter that he must appear in person at the town clerk's/ registrars' office to change the name in which he is registered if he wishes to be listed in his new name before June 1st of the year following the change. After June 1st, the name will be changed on the voting list by the registrars based upon information in the census report for that year.

If, however, the voter cannot produce suitable identification and his identity is questionable, the registrars may authorize a warden's certificate and require that the ballot be challenged. (see IX. D. CHALLENGED BALLOTS on page 80) Or, the person may be given the option of requesting permission to vote from the registrars or of marking an escrow ballot at the polls. (see IX. E. ESCROW BALLOTS on page 85) If the

registrars determine that the voter is the person he claims to be, they may issue a listing error certificate and permit him to vote. (see V. OMITTED VOTERS, C. 2. on page 60)

2. Spelling or Initials Wrong

If the voter claims his name is spelled incorrectly or his initial is wrong, check the information reported by the warden including date of birth and occupation, against that entered on the affidavit of registration. If they are in agreement, a clerical or computer error has been made.

The warden may be authorized to issue a certificate and permit the voter to vote. The warden should make a note on the certificate, "surname spelled wrong on V.L.," "middle initial wrong on V.L.," etc., so that the records can be corrected after the election. However, in some towns the certificate process is not used in cases of simple clerical error. Instead a note is made in the office or the warden includes a note with the voting list when it is returned on election night.

If the information reported by the warden does not agree with that on the affidavit of registration or the voter's identity is questionable, the registrars may require suitable written identification or that the person seek permission to vote directly from them. (see 1. above) If a certificate is issued in a name different from that on the affidavit of registration, the voter should re-sign his affidavit using the correct name.

C. PARTY ENROLLMENT ERROR [53:38; Regs. 51.03(5),(5A), 52.03(5), (5A), 54.03(6),(6A)]

No voter enrolled in a party shall be allowed to receive the ballot of any political party except that in which he is enrolled. [53:38] The voter may have enrolled at the time he registered to vote, or by voting in a previous primary. (see 51:44, 53:37, 37A, 38)

Note: The political party enrollment of a voter shall not preclude him from receiving a town primary ballot of any municipal party, though in no one primary shall he receive more than one party ballot. [53:38]

After his name, address and party is announced by the election officers at the check-in table, a voter may state that the enrollment shown on the voting list is in error, particularly if he wants to vote in the primary of the other political party. The election officers may explain to the voter that if he voted in the party shown in a previous primary but did not file a party change card, he is enrolled in that party. If the voter still believes that the

party enrollment is wrong, the election officers should call the warden to the table.

The procedures to be followed by the warden appear in the Regulations and are similar to those for an omitted voter. (see V. on page 59) The warden should note the voter's name, address, the party shown on the voting list and the party the voter claims is correct, either on a certificate form or on a scratch pad. He should then call the office and report the information.

To determine whether or not an error has been made, check the records as follows:

1. Affidavit of Registration

First, check the voter's affidavit of registration. Note the date on which the voter registered and the party, if any, in which he enrolled.

a. voter registered after most recent previous primary

If the voter registered after the most recent previous primary and the party shown on the affidavit agrees with his claimed enrollment, or if you find a party change card on file, showing an enrollment which agrees with his claim, dated after he registered and before the close of registration for the primary being held, a certificate stating the correct enrollment should be authorized.

If, however, the enrollment on his affidavit does not agree with the voter's claim, or if the party change card was filed after the close of registration, or if no party change card is found, a certificate should not be authorized.

b. voter registered before most recent previous primary

If the voter registered before the most recent previous primary, proceed as outlined below:

- changes entered on affidavit

If changes in party enrollment have been entered on the affidavit of registration, check the most recent entry. If it agrees with the voter's claim, a certificate stating the correct party should be authorized.

If, however, the most recent entry does not agree with the voter's claim, note the party shown on the affidavit and proceed as outlined in 2. below.

- changes not entered on affidavit

If changes have not been entered on the affidavit, check and note the party, if any, in which the voter enrolled at the time of registration. Proceed as outlined in 2. below.

2. Party Change Cards

Next, check the party change cards on file. If one is found showing a change to the party claimed by the voter to be correct, a certificate stating the correct enrollment should be authorized, provided however, it is the most recent card signed by the voter, it is dated after the most recent previous primary but before the close of registration for the primary being held.

If the card is dated before the most recent previous primary or no party change card is found, proceed as outline in 3. below.

3. Primary Check Lists

Look at the check list used in the most recent previous primary and note the party, if any, shown next to the voter's name. If it agrees with his claim, a certificate stating the correct enrollment should be authorized.

If it does not agree, you may check the voting lists used in earlier primaries, if available, to determine when the voter became enrolled in the party currently shown. Then check to see if a party change card was filed after that primary to be certain that the enrollment was not carried forward in error on subsequent voting lists.

4. Voting Lists - Street Lists

Note that the Regulations require that the records for at least the previous three years must be checked. If you do not have primary check lists more than two years old, check a copy of the voting list dated the year before the oldest available primary list. This voting list might be a copy of the master list or a copy of the "first voting list" kept on file. Then check to see if a party change card was filed after the date on that list to be certain that the enrollment was not carried forward in error on subsequent voting lists.

If a voting list more than two years old is not available, the street lists may be checked provided party enrollment is printed on these lists.

5. Issuing a Certificate

If the registrars determine an error has been made on the

voting list, the warden should be authorized to issue a certificate of error in party enrollment. He should enter on the certificate the voter's name, address and the correct enrollment, if he has not already done so, and add his signature.

Note: In some towns, the registrars take a formal vote before a primary to have the town clerk or his employee check the records and authorize certificates without consulting them on the day of the primary where the records clearly show that an error was made.

The warden should give the completed certificate to the election officers at the check-in table who should correct the party shown on the voting list. It is suggested that they use a slanted line to cross out the incorrect party. Then enter the correct party, make the mark to show that the person voted, and give the voter the appropriate ballot or voter authority certificate. The certificate of error in party enrollment should be attached to and be considered part of the voting list.

In paper ballot and punch card towns, a duplicate certificate should be given to the election officers at the check-out table and the appropriate correction made on that voting list.

6. Warden not Authorized to Issue Certificate

If, however, the warden is not authorized to issue a certificate, he should inform the voter that he may either request permission to vote from the registrars or mark an escrow ballot of the party in which he wishes to vote at the polls. (see IX. E. ESCROW BALLOTS on page 85)

If the voter appears at the office to request permission to vote from the registrars, show him the records which have been searched. Usually, a voter will be convinced that the enrollment shown on the voting list is correct if he sees a previous primary check list showing that he voted in that party.

However, if he is certain he filed a party change card following that primary, search the party change cards again. His card may have been misfiled. If you have removed inactive cards from the file, those may be searched.

If a record is found to show that the enrollment on the voting list is incorrect, a certificate may be issued at the office. In that case, proceed as outline under V. C. 2. on page 60.

If you cannot find any record to substantiate an error, inform the voter he may mark an escrow ballot of the party in

which he wishes to vote at the office. (see IX. E. ESCROW BALLOTS on page 85) Also, suggest that he complete and sign a party change card before he leaves the office so that the enrollment he wishes will be entered on future voting lists.

Note: If at a November state election, a voter complains that the party enrollment shown on the voting list is in error, the election officers may explain that if he filed a party change card after the most recent primary there may not have been time to make the change on the voting list. They should also suggest that the voter check with the town clerk's/ registrars' office to be certain his enrollment records are correct.

VIII. AV OR SAV MARKED ON VOTING LIST [54:100; Regs. 51.03(28), 52.03(23), 54.04(28)] (see ABSENTEE BALLOTS in Volume 3 of this series)

A person to whom an absentee ballot has been mailed or delivered, as provided in 54:92, and opposite whose names the letters AV or SAV have been placed on the voting list, or upon his certificate of supplementary registration, shall not be permitted to vote in person on election day unless he first obtains a certificate from the town clerk. Note that AV and SAV must be entered on the voting list or certificate of supplementary registration next to the names of all persons whose applications for absentee ballots have been certified.

A. WHO MAY/MAY NOT RECEIVE A CERTIFICATE

1. Registered Voters to Whom Ballot was Mailed

Only a registered voter to whom a ballot was mailed may receive a certificate to vote in person on election day. A person whose name appears on the list of non-registered specially qualified voters may not receive a certificate even though he is in town on election day since such persons are entitled to vote only by absentee ballot. (see 54:103J)

While it is very unlikely that a request will be made by a person who voted by absentee ballot in the town clerk's office prior to the election, a certificate should not be issued to such a person. His ballot was received before election day and processed under the provisions of 54:94. (see Note under 3. below)

2. Absentee Ballot Not Yet Received or Processed

A voter whose ballot has not yet been received at the time he appears to vote in person, must be given a certificate. In

addition, a person whose ballot has been received but has not yet been processed by examining the affidavit on the inner ballot envelope in the town clerk's office, must also be given a certificate even though his name may have already been entered on the absentee ballot disposition sheet.

3. Absentee Ballot Processed

If his absentee ballot has already been processed by examining the affidavit on the ballot envelope, the voter should not be given a certificate even if his ballot was rejected as defective. His name will have been entered on the disposition sheet and either the column entitled BALLOT CAST or the column entitled REJECTED AS DEFECTIVE will have already been marked.

Note: 54:100 states that a certificate should be given to a voter "whose name has not been checked, or against whose name the letter R (for rejected as defective) has not been marked on the list of absent voters, as provided in section 94." However, checking the name and marking the R refers specifically to those marks required by 54:94 to be made on the voting list at the time ballots are processed in the office, not the marks made at the time ballots are processed by the warden at the polls. The certificate should not be issued after the ballot has been processed in the office even if the voting list is marked only by election officers at the polls as provided in the Regulations 51.03(27)(d), 52.03(22)(d), 54.03(27)(d).

B. PROCEDURES

If the election officers at the check-in table find AV or SAV next to a voter's name on the voting list they should immediately call the warden to the table. The warden should obtain the voter's name and address and call the office to report this information.

1. Check the Records

At the office, the records will need to be checked to determine whether or not the ballot has been processed as follows:

- look at the absentee ballot disposition sheet on which the voter's name would have been entered.
- if you find the voter's name, look at both the column entitled BALLOT CAST and the column entitled BALLOT REJECTED AS DEFECTIVE opposite the voter's name. If a check mark or X has been entered in either column, the ballot has been processed and a certificate cannot be issued.

- if you do not find the voter's name, or if you do not find a mark opposite his name in any column on the disposition sheet, his ballot has not been processed and a certificate should be issued, unless AV or SAV was marked on the voting list in error. (see D. CLERICAL ERRORS ON VOTING LIST on page 74)

2. Certificate Cannot Be Issued

If the certificate cannot be issued because the voter's absentee ballot has already been processed, the warden should inform him of this fact and that he cannot vote in person at the polls. If the voter objects, the warden should direct him to the office or permit him to mark an escrow ballot. (see IX. E. ESCROW BALLOTS on page 85)

3. Certificate Can Be Issued

a. form

The General Laws do not specify the type of form to be used for certificates but do specify that it must include the voter's name and residence as stated in the annual register. A form similar to that shown in the sample below may be used.

SAMPLE CERTIFICATE TO VOTE IN PERSON

This is to certify that no absentee ballot from

_____ (name of voter as registered)

of _____ precinct _____
(voting address) (#)

has been processed, and that said voter is entitled to vote in person at the polling place for said precinct.

Party enrollment of voter _____
(Dem./Rep./Unenrolled)

Date _____ signature _____
Town Clerk/Asst. Clerk

Including the party enrollment on the certificate is not specifically required by the General Laws. However, it should be included for a primary, particularly if "D" or "R" was marked on the voting list to be used at the polls when the application was processed. An unenrolled voter

does not become enrolled in a party until his absentee ballot is processed. If he is voting in person by certificate, he may choose a different party from the one he entered on his application.

b. issuing a certificate

The certificate must be signed by the town clerk or assistant town clerk, not by the board of registrars or any other person.

Note: In towns having an election commission, it must be signed by a majority of the commission members.

In many towns, a certificate for an absentee voter to vote in person is issued only at the town clerk's office. No certificates are issued at the polls. In this case, the warden should direct the voter to the office.

A voter who is unable or unwilling to obtain a certificate at the office, should not be permitted to vote at the polls. However, he should be permitted to mark an escrow ballot, if he wishes. (see IX. E. ESCROW BALLOTS on page 85)

However, in some towns, the town clerk is at the polls on election day and will call the office to have the records checked. If the ballot has not yet been processed, the town clerk issues the certificate at the polls. Or, the town clerk provides the warden with a supply of signed certificates. In this case, be certain that the warden understands that he cannot issue a certificate until after he has called the office and obtained permission.

In paper ballot and punch card towns, the certificate should be issued in duplicate.

4. Voting by Certificate

After the voter has received his certificate, he should present it to the election officers at the check-in table. They should check his name on the voting list the same as for other voters, give him a ballot and permit him to vote. (see IV. WHO MAY VOTE on page 27)

5. Certificate to be Preserved and Returned to Town Clerk

54:100 provides that the certificate be preserved and "returned to the city or town clerk in the same manner in which the voting lists are required by section 107 to be enclosed." In most towns, the certificate is attached to the check-in voting list the same as omitted voter and other certificates.

In paper ballot and punch card towns, attach the duplicate certificate to the check-out voting list.

6. Marking the List of Absentee Voters

For each certificate issued, the capital letter C must be marked opposite the name of the voter on the list of absentee voters.

If the names of all applicants for absentee ballots have been included on the disposition sheets, mark "C" on this sheet to the left of the voter's name. If all applicants have not been included on the disposition sheet, make a copy of each certificate issued and attach it to the appropriate sheet. In this case, you will have prepared a separate list of applicants and the letter "C" should be marked on this list next to the voter's name.

C. BALLOT RECEIVED OR PROCESSED AFTER CERTIFICATE ISSUED

If an absentee ballot is subsequently received from a voter to whom a certificate has been issued, it should be processed as follows:

- attach the ballot to the application
- enter (or find, if it has already been entered) the voter's name and address on the appropriate disposition sheet
- mark in large red letters on the ballot return envelope REJECTED AS VOTED IN PERSON. Note that you do not need to open the return envelope since the affidavit on the inner envelope is not examined
- make a check mark or X on the disposition sheet opposite the voter's name in the column entitled REJECTED AS VOTED IN PERSON
- place the ballot and the application with the absentee ballots which were rejected as defective.

D. CLERICAL ERRORS ON VOTING LIST

1. Voter Claims He did not Apply for Absentee Ballot

Sometimes a voter whose name has been marked AV on the voting list claims that he has not applied for an absentee ballot. In this case, you will need to check the records to determine whether or not a clerical error has been made on the voting list used at the polls.

Check all absentee voting records in your office, including disposition sheets, list of applicants and the applications. If AV was marked on an office copy of the voting list, that should be checked as well.

If you do not find the voter's name on any of these records a clerical error was probably made either in entering AV or in transferring AV to the voting list at the polls, particularly if, during your search, you find that another voter whose name appears nearby on the voting list did apply for an absentee ballot.

If a clerical error was made, it can be corrected on the records in your office. Also, inform the warden that the voting list at the polls should be corrected by crossing out the erroneous AV and entering AV next to the correct voter. Be certain that the marks used to cross out AV cannot be confused with the mark made to indicate that the voter is voting in person. A note "AV entered in error" may be made next to the person's name to provide a clear record. No certificate is required and the person should be permitted to vote as usual.

2. Voter Claims He did not Return his Ballot

In some towns, the voting list used at the polls is marked at the time the absentee ballots are processed in the office to indicate the ballot was accepted or rejected. If an absentee voter, whose name has already been checked or marked "R", appears at the polls, he may be informed at the polls that his absentee ballot has already been processed and that he cannot now vote in person.

However, sometimes such a voter claims that he either did not use his ballot or that he did not return it. In this case, the warden should call the office and the records should be checked for a clerical error.

Look at the absentee ballot disposition sheet as outlined under B. 1. on page 71. The voter's name should be checked very carefully, including any initials and a suffix such as Jr., Sr. etc. A clerical error both in entering AV on the list and in marking the name to indicate a ballot has been cast or rejected is likely only when two or more voters, whose names are the same or similar or are close together on the voting list, have applied for absentee ballots.

If you do not find the name on the disposition sheet, or if you find the name but there is no entry opposite the voter's name in either of the columns entitled BALLOT CAST or REJECTED AS DEFECTIVE, the ballot has not yet been processed and a clerical error was made on the voting list. The voter should be given a certificate and permitted to vote. You should then

determine which voter's name should have been marked and inform the warden to make the appropriate mark on the voting list at the polls.

Under either 1. or 2. above, if the records show that the voter did, in fact, apply for an absentee ballot or that his ballot was processed, but he maintains otherwise, the warden should not permit the voter to vote. He should direct the voter to the office or permit him to mark an escrow ballot at the polls if he wishes. If the person appears at the office but the problem cannot be resolved, the person should be permitted to mark an escrow ballot there. (see IX. E. ESCROW BALLOTS on page 85)

Note: In paper ballot and punch card towns, have the warden look at the check-out list before he calls the office. He should report whether the same voter's name has been marked the same as on the check-in list. If it has not been so marked but another voter's name nearby has been, this may help to establish a clerical error.

IX. ELECTION DAY PROBLEMS

A. VOTER REQUESTS INSTRUCTIONS [54:33B,33C,33E,35; Regs. 51.03(8), 52.03(11),(12), 54.03(9)]

Instructions shall consist of informing the voter on the proper methods of marking a paper ballot, voting by machine or punching a punch card ballot. [Regs. 51.03(8)(b), 52.03(11)(b), 54.03(9)(b)]

If the voter has questions about the names of candidates, their placement on the ballot, or the ballot questions, he should be referred to the specimen ballot. Those instructing voters should not answer questions concerning a candidate's qualifications, background or platform, or issues related to ballot questions. They must be certain they do not in any way, either by what they say or the tone of voice used, influence the voter to vote for or against any candidate, political party or ballot question. [54:33C; Regs. 51.03(8)(d), 52.03(11)(d), 54.03(9)(d)]

Instructions may be given outside or inside the guard rail or voting compartment depending upon whether or not the voter has been checked in at the time he requests instructions.

Note: In voting machine towns, it is suggested that the term "candidate pointer" always be used instead of "candidate lever" and the term "large red handle" be used instead of "voting lever" when giving instructions to voters. The terms "candidate lever" and "voting lever" are easily confused by the voter.

1. Outside the Guard Rail

If the voter requests instructions outside of the guard rail such instructions may be given by an election officer or by some other person designated by the town clerk or warden. If there is a light voter turnout, an election officer can usually give the instructions. However, if there is a heavy turnout, the election officers are usually busy with other official duties and another person is designated to instruct voters. (see ELECTION OFFICERS in Volume 3 of this series) In this case, be certain that the person has been trained to ensure that instructions are properly given. In some towns, particularly punch card towns, written instructions are provided for the instructor. (see sample instructions on page 254; also see IV. B. VOTING on page 33)

In paper ballot towns, instructions are to be given on marking and folding the ballot using a specimen ballot. [Regs. 51.03(8)(a)] In voting machine towns, instructions are to be given on the manner of operating the machine using the model voting machine required to be placed outside the guard rail. [54:33B; Regs. 52.03(11)(a)] In punch card towns, instructions are to be given on the manner of punching ballots using the demonstration marking unit required to be placed outside the guard rail. [54:33E; Regs. 54.03(9)(a)]

Note: In punch card towns, the person stationed at the demonstration unit shall ask the voter if he wishes to have instructions or a review of how to use the equipment. [Regs. 54.03(2)]

New voters may also need instruction on the procedures for checking in and for checking out.

2. Inside the Guard Rail

Upon request, a voter may also be instructed inside the guard rail after he has been checked in. In this case, instructions must be given by an election officer since other persons are not permitted within the guard rail. (see IX. B. VOTER REQUESTS ASSISTANCE on page 78 for exception) If possible, the voter should be instructed outside the voting booth or marking compartment in a paper ballot or punch card town or before he has closed the voting machine curtains in a voting machine town. In this case, one election officer may give the instructions.

If, however, the voter requires further instructions after he has entered the voting booth or marking compartment and has started to vote or has closed the voting machine curtains, two election officers of different parties must give the instructions. [54:33C; 52.03(12)]

While not specifically required by the General Laws or the Regulations, it is suggested that, before giving instructions, the voter be asked to fold his paper ballot, if possible, or to cover the votes already cast. In voting machine towns, the voter should be asked to push up all candidate pointers he has pushed down before the two election officers push the curtains aside to give instructions, except under certain circumstances. (see IX. 1. VOTING MACHINE PROBLEMS on page 98) If necessary, a specimen ballot or a copy of the list of persons should be brought to the voter rather than permitting him to emerge from the booth or machine before he has finished voting.

Note: In paper ballot and punch card towns, if the voter has any doubt that his ballot is marked or punched correctly, he may return it to the election officers and obtain a new ballot. (see C. SPOILED BALLOTS on page 79)

After instructions have been given, the election officers must withdraw from the voting compartment or machine so that the voter can mark his ballot or register his vote in secret. [54:33C; Regs. 51.03(8)(b), 52.03(11)(b), 54.03(9)(b)]

B. VOTER REQUESTS ASSISTANCE [54:33C,79; 56:25,53; Regs. 51.03(8), 52.03(11), 54.03(9)]

Assistance shall consist of actually voting for the voter. [Regs. 51.03(8)(b), 52.03(11)(b), 54.03(9)(b)]

Any voter who states to the presiding officer that from blindness or other physical disability or an inability to read or to read English, he is unable to prepare his ballot or register his vote upon a voting machine, shall be assisted by any person whom he may designate. The person assisting does not need to be a registered voter. [54:79; 1985:477] In addition, the Regulations provide that assistance may be given by two election officers of different political parties if requested by the voter.

The two election officers should enter the marking compartment or voting machine with the voter. They should close the voting machine curtains. In many cases, the election officers will need to read the ballot to the voter including the office titles, candidates' names, designations etc. and the ballot questions. When the voter indicates the candidate for whom he wishes to vote or his answer to the ballot question, one election officer should mark the ballot, punch the ballot card, or push the candidate or question pointer down. The other election officer should observe to be sure the ballot has been accurately marked or punched or that the correct pointers on the machine have been pushed down in accordance with the voter's wishes.

It is suggested that the necessary conversation be conducted as quietly as possible to prevent it from being overheard by other voters or election officers in the voting area. If possible, other voters should be directed to compartments or machines a distance away from that in which the assistance is being given.

After voting, the election officers should fold the ballot, place the punch card(s) in the gray write-in envelope, or push the large red handle to the left depending upon the voting system used. If necessary, in paper ballot or punch card towns, the two election officers should assist the voter through the check-out process.

While giving assistance to voters, the election officers should be careful they do not in any way, either by the words used or by their tone of voice, influence the voter to vote for or against any candidate, political party or ballot question. [54:33C; Regs. 51.03(8)(d), 52.03(11)(d), 54.03(9)(d)] Also, they should not reveal to anyone how the voter voted.

The penalty on a person who makes a false statement as to his ability to mark his ballot is a fine of not more than \$100.00 or imprisonment for not more than 6 months. [56:25]

The penalty on whoever marks a ballot not cast by himself, except as required by law, is imprisonment for not more than 2 1/2 years. [56:53] For example, an election officer who assisted a voter and marked his ballot when the voter requested the assistance from someone else would be subject to this penalty.

C. SPOILED BALLOTS [54:81; Regs. 51.03(11),(12); 54.03(11),(12)]

If a voter spoils his ballot, he may obtain two others, one at a time, upon returning each spoiled ballot to the election officers at the check-in table. [54:81; Regs. 51.03(11), 54.03(11)]

Note: Spoiled ballots are likely only in paper ballot or punch card towns. In voting machine towns, the only spoiled ballots possible are when absentee ballots are required for challenged or escrow ballots or when all voting machines fail.

A voter spoils his ballot by making a mistake in marking a cross (X) or punching a hole opposite the name of a candidate for whom he does not wish to vote or by writing in the name and address of a candidate not on the ballot and then changing his mind. If the Datavote system is used, it is possible to punch a hole in a blank space on the card, but this does not spoil the ballot since the ballot counter will ignore such holes.

When a spoiled paper or punch card ballot is returned, the election officer must mark SPOILED in large letters on the front and immediately place it in the spoiled ballot envelope. [54:81;

Regs. 51.03(12), 54.03(12)] (see PREPARING ELECTION MATERIALS, III. ENVELOPES, B. 2. and D. 1. in Volume 3 of this series)

In punch card towns, if the ballot contains a serial number, enter that number on the form attached to the outside of the spoiled ballot envelope. If the ballot consists of more than one punch card, the voter need return only the spoiled card. If the voter has spoiled his gray write-in envelope he should return only the envelope. Mark the gray envelope SPOILED in large letters and place in the spoiled ballot envelope. Enter "envelope" in the space provided on the form for the serial number.

The voter should then be given a new paper or punch card ballot or gray write-in envelope as appropriate and permitted to enter a voting compartment again.

Note: If a challenged or escrow ballot has been spoiled, the procedures outlined above should be used. However, the information required to be entered on a challenged or escrow ballot should be entered on the new ballot before it is given to the voter. (see IX. D. CHALLENGED BALLOTS below and IX. E. ESCROW BALLOTS on page 85)

D. CHALLENGED BALLOTS [54:35A,35B,76B,85,85A,96; 56:13,25,31; Regs. 51.03(23),(27)(g); 52.03(19),(22)(g); 54.03(23),(27)(g)]

In any state, city or town election at which official ballots are used, the right of a person offering to vote may be challenged for any legal cause. [54:85] In addition, any voter, whether or not his name appears on the voting list, may be challenged if he fails to present suitable written identification when requested by an election officer. [54:76B] (see V. A. 3. Requesting Written Identification on page 46)

1. Who May Challenge a Voter

Any election officer or other person may challenge a person's right to vote in person at the polls or by an absentee ballot. [54:85,96; Regs.] In towns requiring omitted voters' ballots to be challenged, the warden usually is the challenger. (see V. OMITTED VOTERS on page 44)

Note: Challengers of voters may be appointed by the state committee of any political party to act in any polling place in the Commonwealth. The town committee of any political party may appoint such challengers to act in any polling place within a town in which municipal officers are nominated by primaries or political party caucuses. A statement signed by the chairman of the political committee which appointed him, is sufficient evidence of a person's right to act as a challenger. The warden shall assign him to such a position within the polling

place outside the guard rails as will enable him to see and hear each voter as he offers to vote. [54:85A] This provision of the General Laws is seldom used.

2. Reasons for Challenging a Voter

A person offering to vote may be challenged for any legal cause. [54:85] The challenger may act if he believes that the person

- is not old enough to vote
- is not a citizen
- should have been removed from the voting list
- has already voted
- is not the person he claims to be [Regs. 51.03(23)(a), 52.03(19)(a), 54.03(23)(a)]

OR

- if the person has failed to present suitable written identification when requested by an election officer. [54:76B]

Absentee ballots may be challenged for the reasons given above. In addition, they may be challenged for non-compliance with any provisions of 54:86-103, inclusive, including that the voter was not unable by reason of physical disability to cast his vote in person at the polling place on the day of the election. [54:96] The ballot of an absentee voter who failed to present suitable written identification when requested at the time he made application, may also be challenged under 54:76B. In this case, the town clerk should attach a note to the absentee ballot envelope to inform the warden to challenge the ballot at the time the voter's name and address are announced at the check-in table. The reason for challenging the ballot should be included in the note.

The penalty for challenging a voter for the purpose of intimidating him or ascertaining how he voted is a fine of not more than \$100. [56:31; Regs. 51.03(23)(b), 52.03(19)(b), 54.03(23)(b)]

3. Procedures - Voting in Person at the Polls

If a voter is challenged, the election officers at the check-in table should immediately call the warden to the table instead of giving the voter a ballot or voter authority certificate. The warden should not permit any arguments between the challenger and the challenged voter and should not engage in any arguments himself. [Regs. 51.03(23)(c), 52.03(19)(c), 54.03(22)(c)]

Note: Challenges are almost always made at the check-in table. However, in a paper ballot or punch card town, a challenge may instead be made at the check-out table before the ballot is deposited in the ballot box. In this case, the procedures are the same as outlined below except that the required information must be entered on the ballot and the oath administered after the voter has voted and the warden should inform the election officers at the check-in table so that the voting list at that table can be properly marked.

The warden should proceed as follows:

- a. warden to administer oath [54:85; Regs. 51.03(23)(c), 52.03(19)(c), 54.03(23)(c)]

The warden must administer the following oath to the challenged voter:

You do solemnly swear [affirm] that you are the identical person whom you represent yourself to be, that you are registered in this precinct [town], and that you have not voted in this election [primary].

The penalty for making a false oath before the warden is a fine of not more than \$100.00 or imprisonment for not more than 6 months. [56:25]

- b. information to be entered on the ballot

Before the voter is given his ballot and permitted to vote, the following information must be entered:

In paper ballot towns, the challenged voter must write his name and address on the outside of the ballot. The warden must write the name and address of the challenger and the reason(s) for the challenge. [54:85; Regs. 51.03(23)]

In voting machine towns, the challenged voter cannot use a voting machine. Instead, an absentee ballot on which the words CHALLENGED BALLOT have been marked must be used for challenged voters. [54:35A,35B; Regs. 52.03(19)] The voter and the warden enter the information outlined above.

In punch card towns, the challenged voter and the warden must enter the information outlined above on the gray write-in envelope. In a primary, the warden should also enter the party initial on the gray envelope. In addition, the warden must enter on the envelope and on the punch card(s) the precinct number, the letters CV and the

number of the challenged voter; CV1-1 on the first envelope and ballot in precinct 1, CV1-2 on the second envelope and ballot in precinct 1, etc. [Regs. 54.03(23)]

Note: On punch card ballots other than Datavote, enter the precinct number on the line after PRECINCT NO. and CV-# on the line after WRITE-IN NO. at the bottom of the card. On a Datavote card, enter the information where blank space is available either at the top or the bottom of the card being certain that it is not entered on the stub which will be removed before the ballot is deposited in the ballot box.

The penalty on the warden for wilfully or negligently failing to require the name and residence of a challenged person to be written on the ballot or to add the name of the person challenging and the reason for challenge is a fine of not more than \$500.00 or imprisonment for not more than 6 months. [56:13]

c. election officers to mark voting list

The election officers in charge of the voting list at the check-in table must check the name on the voting list, or on the certificate if the person is voting by certificate, and enter the letters CV next to the challenged voter's name. [54:35B; Regs 51.03(23), 52.03(19), 54.03(23)]

d. permit voter to vote

After the oath has been administered, the required information entered on the ballot, the name marked and CV entered on the voting list or certificate, the ballot must be given to the voter. In punch card towns, the punch card ballot and the gray write-in envelope must be given to the voter. He should then be permitted to enter any voting booth or compartment not already occupied. In voting machine towns, the voter should use the paper ballot booth required to be provided in each polling place. [54:35B] (see 54:25)

e. checking out the challenged voter

In paper ballot and punch card towns, the procedures for checking out the challenged voter are the same as for any other voter, except that the letters CV should be entered on the check-out voting list next to the voter's name.

In voting machine towns, the voter should be directed to the ballot box. He should place his ballot in the top

of the box and the warden or an election officer should crank it in.

4. Procedures - Voting at the Office by Certificate

If a person is voting under a listing error certificate at the office and the registrars require that his ballot be challenged, attach a note to the absentee ballot envelope in which the ballot has been sealed to inform the warden to challenge the ballot before it is deposited in the ballot box. Note that a ballot voted in the office under a listing error certificate may also be challenged by an observer at the polls the same as any other absentee ballot. (see 5. below)

If, however, the ballot is to be counted in the office since it cannot be delivered to the polls in time, the town clerk, assistant town clerk, registrar, assistant registrar, or regular office employee should challenge the ballot before it is given to the voter. Use the procedures outlined above.

5. Procedures - Absentee Voters [54:96; Regs. 51.03(27)(g), 52.03(22)(g), 54.03(27)(g)]

The procedures for challenging an absentee ballot are the same as outlined under 3. above except as follows:

- the challenge should be made at the time the name and address of the absentee voter is announced at the polls and before the ballot is deposited in the ballot box. (see 54:95) In paper ballot and punch card towns, the challenge may be made either at the check-in or at the check-out table.
- the warden enters all the required information and no oath can be administered since the voter is not present.

Note: If an application for an absentee ballot has been certified by the registrars but they require the ballot to be challenged, a note should be attached to the envelope before it is transmitted to the polls so that the warden will be aware he should challenge the ballot. Include the reason for challenge in the note. Under certain circumstances, an absentee ballot may be challenged at the town clerk's office before being given to the voter. (see ABSENTEE BALLOTS in Volume 3 of this series)

6. Record Required [54:85,96]

The election clerk must record the name and address of every person who has been challenged and who has voted whether he voted in person at the polls or by absentee ballot. (see PREPARING ELECTION MATERIALS, IX. MISCELLANEOUS, A. 7. Election

Clerk's Record in Volume 3 of this series) If the ballot voted under a listing error certificate was challenged in the office, the town clerk or registrar, etc. should make the required record there.

It is suggested that the record also include the name and address of the challenger and the reasons for the challenge since this information will be needed if a recount is held after the election. (see AFTER ELECTION DAY, XI. RECOUNTS on page 339)

7. No Statement Made or Information Given with Respect to Challenged Ballots [54:85; Regs. 51.03(23), 52.03(19), 54.03(23)]

No person shall make any statement or give any information in regard to a challenged ballot, except as required by law. While the ballot is being challenged, the name and address of the challenged voter, the name and address of the challenger, and the reason(s) for the challenge will be obtained and written on the ballot in public. Anyone present at the polls at that time who hears this information may make whatever notes he wishes.

Once the challenge procedure has been completed and the voter has entered the voting area, his name, address, or other information concerning the challenged ballot should not be given out since doing so is prohibited by both 54:85 and 54:68. Note, however, that the information recorded in the election clerk's record becomes a public record after the election.

E. ESCROW BALLOTS [51:59A; Regs. 51.03(5A), 52.03(5A), 54.03(6A)]

1. Who May Mark an Escrow Ballot

Whenever a person claiming the right to vote in a primary, caucus, preliminary, or other election appears at the polling place for the precinct in which he resides, but is not permitted to vote for any reason, such person shall be allowed to deposit an escrow ballot. [51:59A] Under the Regulations, persons entitled to mark an escrow ballot include, but are not limited to, the following:

- a. persons not entitled to vote under the certificate procedure by 51:59 and Regulations 51.03(5), 52.03(5), 54.03(6)

A person might be determined not entitled to vote under the certificate procedure for one of the following reasons:

- no record of registration was found

- a notice of registration elsewhere had been received
- a death certificate had been received
- no suitable identification was provided and the person refused to sign an affidavit of continuous residence

b. name already checked on voting list

If a voter's name has already been checked on the voting list when he appears to vote but, after an investigation, a clerical error cannot be established, the person should be permitted to mark an escrow ballot.

c. party enrollment error claimed (primaries)

If a voter claims that the party enrollment shown on the voting list is in error, but no record can be found to substantiate an error, the person should be permitted to mark an escrow ballot of the party he wishes.

d. others

A person should be permitted to mark an escrow ballot under the following circumstances:

- the person was refused a warden's certificate at the polls and chose not to seek permission to vote from the registrars
- the person appeared to vote in the wrong precinct but refused to go to the correct precinct, or cannot get there before the polls close
- an absentee voter asked to vote in person but was not eligible for, or was unable or unwilling to obtain a certificate
- a challenged person refused to vote by challenged ballot

Note: While the General Laws [51:59A] appear to limit the right to an escrow ballot to those who appear at a polling place on election day, the Regulations contain no such limitation. Persons applying for an absentee ballot would also have the right to mark an escrow ballot, if their applications cannot be certified. (see ABSENTEE BALLOTS in Volume 3 of this series)

2. Procedures - at Polling Place

The procedures for escrow ballots at the polling place are the same as for challenged ballots, including the oath to be

administered, outlined under D. 3. on page 81 except as follows:

a. election officer to inform person of right [Regs. 51.03(5A), 52.03(5A), 54.03(6A)]

An election officer, ordinarily the warden, must orally inform every person not allowed to vote at the polling place of his right to mark an escrow ballot, of the procedure for doing so, and of the fact that the escrow ballot will not be counted unless the outcome of the election is sufficiently close and the person is later determined to be entitled to vote.

The warden must also inform the person of his option to go to the town clerk's/registrar's office and, if applicable, to vote there under the certificate procedure if determined to be entitled to vote, otherwise to mark an escrow ballot at the office.

b. information to be entered on ballot

Before the person is given his ballot and permitted to mark it, the following information must be entered on it:

In paper ballot towns, the person who will mark the ballot must enter his name and address. The warden must enter the word ESCROW as the reason assigned for marking an escrow ballot. No other reason is to be entered.

In voting machine towns, extra absentee ballots must be provided at each polling place for use as escrow ballots. The person who will mark the ballot and the warden must enter the information outlined above for paper ballots.

In punch card towns, the person who will mark the ballot and the warden must enter the information outlined above for paper ballots on the gray write-in envelope.

c. escrow voter form

While not required by the General Laws or the Regulations, a person marking an escrow ballot may be asked to complete and sign an escrow voter form containing information which will be needed later by the registrars in determining whether or not the person is entitled to vote. (see PREPARING ELECTION MATERIALS, IX. MISCELLANEOUS, B. 10. in Volume 3 of this series)

d. voting list not marked

No entries are to be made on the voting list by the election officer even though the escrow voter's name may appear on that list.

e. escrow ballot placed in envelope

After the person has marked or punched his ballot, he should return it to the warden or to the election officers at the check-in table who should place it in an envelope marked ESCROW BALLOTS. The ballot shall not be deposited in the ballot box. (see PREPARING ELECTION MATERIALS, III. ENVELOPES, A. 7. in Volume 3 of this series) If an escrow voter form has been completed and signed, it may be placed with the ballot in the escrow ballot envelope. However, the form may be kept separate so that the information will be available to the registrars after the election without opening the escrow ballot envelope. For primaries, use a separate escrow ballot envelope for each party.

f. record required

The election clerk must record the name and address of each person who has marked an escrow ballot. If printed forms are used for the election record, the record should be made on a page separate from that used for challenged voters. (see PREPARING ELECTION MATERIALS, IX. MISCELLANEOUS, A. 7. in Volume 3 of this series) If a bound record book is used, the election clerk should separate the entries for escrow voters and challenged voters and label them clearly. If a separate escrow voter form is not used, it is suggested that, in each case, the reason the person marked an escrow ballot should be entered in the record. Other information, such as the person's responses to the warden's questions may also be included. Such information will assist the registrars in determining whether or not to count the ballot after election day. (see AFTER ELECTION DAY, I. ESCROW BALLOTS on page 277)

3. Procedures - at the Office

If the person chose to exercise his option to go to the town clerk's/registrars' office instead of marking an escrow ballot at the polls, but cannot be permitted to vote by certificate there, the town clerk, assistant town clerk, registrar, assistant registrar, or employee should ask the person if he wishes to mark an escrow ballot. Be sure that the person understands the procedures and that the ballot will not be counted unless the outcome of the election is sufficiently close and he is determined later to be entitled to vote.

Note: A person whose application for an absentee ballot cannot be certified, should also be permitted to mark an escrow ballot. (see ABSENTEE BALLOTS in Volume 3 of this series)

If the person wishes to mark an escrow ballot, use one of the extra unused absentee ballots on hand at the office. The procedures are the same as for challenged ballots outlined under D. 3. on page 81 except that the town clerk, assistant town clerk, registrar, assistant registrar, or a regular office employee instead of the warden should administer the oath and enter only the word ESCROW on the ballot. In addition, no marks are to be made on the voting list.

The person may be asked to complete and sign an escrow voter form.

After the person has voted, place his ballot in an escrow ballot envelope and keep it in the office safe. If used, the escrow voter form may also be placed in the envelope or kept separate. For primaries, use a separate escrow ballot envelope for each party. An envelope containing escrow ballots is not transmitted to the polling place. Make a record of the name and address of each person who marks an escrow ballot in the office. Other information to assist the registrars in determining whether or not to count the ballot after election day may also be included.

F. VOTER'S NAME ALREADY MARKED ON VOTING LIST

If, when a voter appears at the polls to vote, the election officers find that the name has already been marked on the voting list as having voted in person, they should immediately call the warden to the table. They should not say to the voter, "you have already voted," "someone has voted in your name," or make any similar statement since such statements clearly imply either that the voter is attempting to vote twice or that someone else has voted by fraud. A clerical error is almost always the reason for the event.

They should simply ask the voter to wait a moment since it appears that a clerical error may have been made in marking the list and the warden will have to take care of it.

1. Common Errors

The most common errors made by election officers in marking the names are as follows:

a. two voters with similar names

Election officers sometimes mark the wrong name when there are two voters at the same address, or listed close

to each other, having similar names. Usually this occurs when only the middle initial is different particularly if the initials sound almost the same, such as B and D, or P and T. However, similar surnames can also cause an error to be made, such as Mercury and Mercuri or Smith and Smyth. In this case, the election officer might not notice the minor difference in spelling.

b. name above, below or near the correct one was marked

Sometimes election officers mark the name above or below the correct name on the list, particularly if there is a line of voters waiting, even though the names are quite different. If the voting list is arranged in two or more columns, a name on the same line but in the wrong column may be marked particularly if the same house number appears in two columns.

c. another member of the same family or household voted earlier

Sometimes election officers mark the wrong member of the family. In this case, usually the father's name is marked when the son voted, or the mother's name is marked when the daughter voted (or vice versa). However, it is not unusual that such an error is made in marking the husband's or the wife's names.

d. two voters with same name but different addresses

The wrong name may be marked if there are two voters having the same name but listed at different addresses, particularly if the addresses are near each other on the voting list or the list is arranged alphabetically by name. In this case, the election officers should ask the voter for his address again to be certain they heard correctly before calling the warden to the table.

Note: At an election, if there are two voters with the same name listed at the same address, simply mark one name when the first voter appears and the other when the second voter appears. (see 3. below for clerical errors at primaries)

2. Substantiate that Clerical Error was Made

The warden should make every effort to substantiate that the name was marked in error. In each case, the warden may ask the voter to provide suitable written identification if authorized by the town clerk. [Reqs. 51.03(5B), 52.03(5B), 54.03(6B)] (see V. 3. Requesting Written Identification on page 46)

The following steps are suggested:

a. examine voting list

The warden should examine the voting list to determine whether it is likely that one of the errors outlined in 1. a. through d. on pages 85 and 86 has occurred. In paper ballot and punch card towns, the warden should examine the check-out list. If the name is not marked on that list, probably a clerical error was made since it is extremely unlikely that the same mistake would be made on both the check-in and check-out list. However, the warden may want to get further information as outlined below and in voting machine towns, there is no check-out list to be examined.

b. obtain information from voter

If a voter with a similar name or in the same household or family is found on the list, ask the voter if he knows whether or not that person voted earlier and the approximate time. The voter may be able to supply this information, particularly if it is a household or family member or a close neighbor.

c. obtain information from election officer

If the same election officers work at the table all day or if you have election officers sign in and out when they work at the check-in table and color code the check list, ask the election officer on duty at the time if he remembers the person who voted earlier. (see PREPARING ELECTION MATERIAL, VI. MISCELLANEOUS B. 3. d. in Volume 3 of this series) If so, this may substantiate the clerical error. Also ask if the election officer remembers seeing the present voter earlier. If not, this further substantiates the clerical error.

d. call person who may have voted earlier for verification

If the election officers cannot substantiate the clerical error, you may try telephoning the person likely to have voted earlier but whose name is not marked on the list.

In this case, simply state that it appears a clerical error was made in marking the voting list earlier in the day and ask that the person verify his having voted. Often, the voter's response will provide the substantiation without difficulty. In a primary, you may also ask the voter to verify the party, if necessary.

3. Clerical Error can be Corrected

At an election, if it can be substantiated that a clerical error has been made, it can be corrected by marking the name of the person who voted earlier. Then permit the waiting voter to vote as usual.

However, at a primary, a clerical error may be more difficult or impossible to correct.

An error can be corrected if one of the following applies:

- both voters are enrolled in the same party
- no party was printed on the voting list for either voter. In this case, enter the party initial and a mark next to the name which should have been marked earlier. The waiting voter may choose the other party if he wishes and the party initial entered by mistake next to his name can be corrected.
- the waiting voter is enrolled in a party and the voter whose name was erroneously not marked is unenrolled. In this case, enter the party initial and mark the name not previously marked.

If however, the two voters are enrolled in different parties, you may not be able to correct the error.

Example: Henry Jones is a Democrat. Harry Jones is a Republican. Henry's name was marked, but Harry has voted. Harry may not have known he was enrolled as a Republican and wanted to vote in the Democratic primary. When that party was announced by the election officers, he simply accepted the ballot and voted.

In a paper ballot or punch card town, such an error would probably have been detected at the check-out table and could be corrected by having Harry turn in his Democratic ballot as a spoiled ballot and vote in the Republican primary, or mark a Democratic escrow ballot, if he wished. If he votes in the Republican primary, his name should be marked on the voting list. Henry should be given a Democratic ballot and permitted to vote as usual.

However, in a voting machine town, the error could not be detected or corrected in that manner since there is no check-out process and there is no way to retrieve Harry's votes from the machine. If it has been substantiated that a simple clerical error was made, Henry should be permitted to vote. It is suggested, however, that Henry's ballot be challenged since the challenge procedure will permit his ballot to be segregated at

a later time if it is determined at a recount or by a court that Henry should not have been permitted to vote. Also, if a recount is held and the results appealed, the court would determine, as a separate issue, what should be done about Harry's votes. Note that unless Harry's name is marked on the voting list and a note, such as "voted D" is entered next to his name, the count of names marked on the voting list will not balance with the number of ballots cast.

In any case, each event should be recorded in detail in the election record.

4. Unsubstantiated Error - Escrow Ballot

If it cannot be determined that a simple clerical error was made, the person must be permitted to mark an escrow ballot. (see IX. E. ESCROW BALLOT on page 85)

5. Apparent Error

If the voting list is printed on both sides of a page an apparent error is sometimes found, particularly after many names have been marked. When a name is marked, a mark made previously on the page directly under it is transferred to the reverse side of the page being marked. Such a transferred mark sometime appears in the appropriate location opposite a voter's name.

If election officers are trained to use a firm hand when marking the list, this type of apparent error can usually be detected since the transferred mark is lighter than the rest of the marks on the page. In this case, simply mark the name firmly and permit the voter to vote as usual.

G. PRIMARIES

1. Election Officer Fails to Enter Party on Voting List

In a primary, the party must be entered on the voting list opposite the name of each unenrolled voter after he states the party whose ballot he selects. [53:37] However, sometimes the election officer in charge of the check-in list forgets to enter the party initial.

In paper ballot or punch card towns, this omission may be corrected by looking at the check-out list. The party should have been recorded on that list at the time the ballot was deposited and if so, the party can then be entered on the check-in list.

However, in voting machine towns, there is no check-out list. If you discover the omission during the day of the primary, you may attempt to correct it by telephoning the voter. Simply state that the election officer neglected to record the party in error and ask the voter which ballot he chose. Most voters will give you this information without any problem and the omission can be corrected.

Or, you may be able to correct the omission by looking at the completed and signed party change cards. If the voter completed a card and has entered the party from which his enrollment should be changed, that party can be entered on the voting list.

If you are unable to correct the omission, there will be a discrepancy in the number of ballots cast compared to the number of names marked on the voting list. If there is only one omission, the count of ballots cast will clearly show which party should have been entered and the correction can be made at that time. However, if there was more than one omission, the count of ballots cast will not permit the correction to be made unless all omissions were in the same party.

Enter in the election record the voter's name and address and that the party was omitted in error. This fact may explain a discrepancy between the voting list count and the number of ballots cast. (see XV. C. 1. Count Names Marked on Voting List on page 141)

2. Unenrolled Voter Wants to Change Party after Checking in

Occasionally an unenrolled voter discovers that he has chosen the wrong party after he enters the voting booth or machine and looks at the ballot. Usually this happens when an unenrolled voter customarily votes in one party but at the primary being held he wishes to vote for a particular candidate running in the primary of the other party.

In this case, the voter may be permitted to change his party selection. The voter should return to the check-in table. First, the election officers should check the voting list to be certain the voter was unenrolled at the time he checked in. If so, the election officer should then cross out the party he entered originally on the list and enter the other party.

Note: If the party enrollment is printed on the voting list or was entered in the office before the list was sent to the polls, the voter must vote in that party unless an error was made. (see VII. C. PARTY ENROLLMENT ERROR on page 66)

In paper ballot and punch card towns, the voter should return the original ballot, be given the other party's ballot and be permitted to vote. The ballot being returned should be treated as a spoiled ballot. (see IX. C. SPOILED BALLOT on page 79)

In voting machine towns, the voter should return his voter authority certificate. If the party initial was entered on the certificate, it may be crossed out and the other party initial entered. If certificates of a different color for each party are used, the voter may be given a new certificate of the correct color. He should then be permitted to vote. If the voter had entered a machine and closed the curtains before discovering his mistake, follow the additional procedures outlined under IX. 1. 8. c. on page 116.

In any case, the event should be recorded in the election record, including the name and address of the voter, to document the reason for the correction in the party appearing on the voting list.

H. BALLOT BOX PROBLEMS [54:66; Regs. 51.03(26), 54.03(26)]

After it has been examined and then locked before the polls open on election morning, the ballot box shall not be opened nor any ballots removed until the polls are closed and all waiting voters have voted, except under certain circumstances specified in the General Laws and the Regulations. In each case outlined below, the election clerk should record the event, including the reasons for the action taken, in the election record. In many towns, the election clerk also records the number on the ballot box register at the time the box was opened.

1. Ballot Box too Full

a. room for more ballots if packed down

If the ballot box is too full, but there is room for more ballots, the warden should obtain the key from the police officer and open the side door of the box. He should then pack or press down the ballots being certain that no ballots are removed from the box during the process.

He should immediately relock the box and return the keys to the police officer.

This procedure must take place in the presence of all the election officers on duty at the polls. The election officers at the check-in table do not need to leave the table if they can observe the procedure from that position.

Since the ballot box is next to the check-out table, those election officers can observe the procedure without moving. However, the check-out process will have to be interrupted while the warden is working on the box. It is suggested that the election clerk be present at the box since he must record the event.

b. no more room in ballot box

(1) warden to open box and remove ballots

If it is impossible for voting to proceed because the ballot box is too full, the warden should obtain the key from the police officer and open the side door of the box. He should then remove the ballots. As soon as the ballots are removed, the box should be relocked and the keys returned to the police officer. The check-out process can then continue.

(2) majority of election officers or police officer to be present

54:66 requires that a majority of the election officers be present and the Regulations require that the police officer be present while the box is opened and ballots are removed. The election clerk should be present since he must record the event.

The election officers at the check-out table, the election clerk and the warden would constitute a majority of the election officers on duty at the polls. The officers at the check-in table would not need to move even if they were unable to observe the procedure clearly.

(3) ballots may be arranged in blocks

The votes on the ballots cannot be counted at this time but the ballots may be arranged in convenient packages (blocks).

If the ballots are to be counted after the polls close in blocks of 50, it is suggested that each package contain 50 ballots. An elastic may be placed around each package. In primaries, they may be separated by party at this time.

In punch card towns, the cards cannot be separated from the gray write-in envelopes or otherwise processed at this time, but they may be divided into convenient packages and separated by party if a primary. They may also be arranged so that all ballots are right side up

to facilitate the ballot examination after the polls close.

(4) warden to seal ballots

The warden must place the ballots in a container of fiber, wood or metal. A regular fibreboard box may be used. 54:66 requires that the container be tied lengthwise and crosswise with heavy twine, securely tied and the knot sealed with stationer's sealing wax. The Regulations permit the ballots to be placed in a fibreboard box or other container which can be securely locked. The ballots may be placed in a carton and sealed with one or more regular gummed or self-stick seals.

Any election officer who wishes may affix his private seal to the container in such a way as to indicate later whether or not it has been opened.

The container shall not be removed from the polling place but shall remain beside the ballot box in full view of the voters and election officers until the polls close. After the polls close and the last waiting voter, if any, has voted, the container may be opened to count the ballots.

Note: In voting machine towns, the problems outlined under 1. a. and b. above do not ordinarily occur since only absentee and challenged ballots are deposited in the ballot box.

2. Ballot Box Impossible to Use

If it becomes impossible to use the state ballot box, voting shall proceed in such manner as the warden shall direct. A substitute ballot box shall be used, kept in public view and under the same security as the original ballot box. The election clerk shall not only record the event, but include an attested copy of the record in the container with the cast ballots.

The most likely reason that the ballot box becomes impossible to use during an election would be a mechanical failure of the cancelling mechanism to prevent ballots from being deposited. If the ballot box was destroyed or stolen during delivery, a substitute ballot box would also be required. (see 11. B. 8. on page 8)

If, however, the register failed to operate so that ballots were not counted, but the cancelling mechanism was operating properly, the state ballot box could continue to be used. The

election clerk should record in the election record the reason for the discrepancy between the register and the number of ballots cast.

3. Ballot Jammed while being Deposited

On occasion, a ballot becomes jammed in the cancelling mechanism while being deposited. If possible, the warden should pull the ballot out of the mechanism without opening the box. If the ballot is smoothed out, it may go through the mechanism properly.

However, if it is not possible to free the ballot without opening the box, the warden will need to obtain the keys from the police officer. He may be able to free the ballot by opening only the top of the box. If not, he will need to open the side door, reach in and pull the ballot through.

In any event, the election clerk and the election officers at the check-out table should be present to observe the procedure. The election clerk should watch the register to see whether or not the number moves. If the ballot has to be re-inserted in the box, the register number will probably be one more than the number of ballots deposited in the box. The election clerk should record in the election record the reason for the discrepancy between the ballot box register and the number of ballots cast.

If a ballot is torn in the process of freeing it from the cancelling mechanism, this fact should also be recorded. If a ballot should be torn in two pieces, put both pieces in the box. The tellers should match up the pieces and count the ballot after the polls close. However, if two ballots are torn and it appears that the tellers may have difficulty in correctly matching the pieces after the polls close, tape may be used to keep the two pieces of each ballot together.

4. Voter Deposits Ballot without Voting

Occasionally a voter forgets to vote but does not realize it until after he has deposited his ballot in the ballot box. In this case, do not attempt to retrieve the ballot from the box. Permit the voter to mark an escrow ballot. (see E. ESCROW BALLOTS on page 85)

1. VOTING MACHINE PROBLEMS [54:33B; Regs. 52.03(13)(14)]

While most voters operate the machines properly and the machines function properly most of the time, there are a number of problems which may occur during an election day. Some of these problems are caused by voters and others are caused by a machine

breakdown. Those caused by voters can usually be handled quickly and easily by the election officers or by the warden. Others may require the attention of a custodian of voting machines but if the voting machines are carefully prepared and tested before each election, mechanical problems are minimized.

1. General

a. election officers to investigate problem

In each case, the election officer attending the voting machine must investigate the problem to determine what action is needed. In some towns, inspectors are trained to handle many of the problems. In other towns, inspectors are instructed to call the warden to the machine when any problem occurs and the warden is trained to handle it.

If the voter has already enclosed himself in the machine, the election officer attending the machine should first try to determine what the problem is by talking to the voter through the closed curtains. In many cases of voter-caused problems, all that is needed is further instruction in operating the machine and this can be given by one election officer without entering the machine.

However, in other cases, the election officers must look in or enter the machine to investigate the problem. In this case, two election officers of different parties must be present. [Regs. 52.03(13)] Except as outlined under 2. b. and c. on pages 103 & 104, the voter should first be asked to push up all candidate pointers he may have pushed down to preserve his right to a secret ballot. Then the election officers should push the curtains aside by hand and look or step in the machine. Be certain that the voter does not use the large red handle to open the curtains at this time. (see 3. on page 105) Many of the problems can be solved either by giving the voter instructions or assistance. (see IX. A. VOTER REQUESTS INSTRUCTIONS on page 76 and IX. B. VOTER REQUESTS ASSISTANCE on page 78)

b. election officers cannot solve problem

If, after investigation, the election officer(s) cannot determine what the problem is, or they believe it is caused by voting machine failure, they should call the warden to the machine. The warden should then investigate. If he must enter a machine after the curtains have been closed, he should be accompanied by an election officer of a different party from his own.

If the warden cannot solve the problem, he should call the town clerk or, if he believes the machine has failed, the custodian of voting machines.

Under certain circumstances, a voter can be moved to another machine and permitted to vote and in each case, the election clerk should record the event in the election record. In most of these cases, the warden should first determine whether or not the voter has cast any write-in votes by checking the candidate pointers under each office. If the correct number can be pushed down, no write-in votes have been cast and the voter can immediately be moved to another machine.

If the correct number cannot be pushed down, check the appropriate write-in slot covers. If one is loose and will move easily when slight pressure is applied to the tab, a write-in vote may have been cast. If so, the voter should be asked to obliterate it using the pencil provided in each machine. Then he may be moved to another machine.

After moving the voter, the warden or an inspector should check to be certain the write-in vote on the problem machine has been obliterated so that it cannot be counted in error.

In some towns, the voter authority certificate is also moved to the receptacle at the new machine, but this is not required.

In each case when a voter is moved to another machine, the problem machine will have to be released for use by subsequent voters. The procedures to be used are outlined in the following where applicable. Note that in some cases, the services of the voting machine custodian are required.

c. custodian's services required. [54:33B; Regs.
52.03(14)]

If through mechanical failure a machine ceases to function, it shall be inspected and put into working order, if possible, by a custodian of voting machines.

Note: If the town clerk is at the polling place and is able to make the necessary adjustments or repairs on the machine, he can do so rather than having a custodian called for each problem. He should however, do the work in the presence of two election officers.

(1) two election officers must be present

The custodian must do his work in the presence of two election officers of different parties. The election officers do not need to leave their assigned stations, but should be in the same general area as the custodian while he is working.

(2) statement required

The two election officers must make and sign a statement including the machine number, the reasons the machine failed to operate and the number of votes to be subtracted from the public counter, if any, as reported by the custodian. It is suggested that the statement also include the time the machine was placed out of service and returned to service. If the voting machine cannot be repaired, the election officers must sign a statement to that effect and place the machine out of service. In this manual such a statement is called a certificate of voting machine failure. (see PREPARING ELECTION MATERIALS, IV. CERTIFICATES & AFFIDAVITS, B. 4. in Volume 3 of this series)

Note: To resolve some problems, the machine must be operated by the custodian one or more times. Each time, a vote is recorded on the public counter and must be subtracted from that counter after the polls close in order to balance the number of names marked on the voting list with the number of ballots cast. The subtraction may be needed even though the services of a custodian were not required.

The certificate of machine failure must be recorded in the election record and filed with the election returns. In some towns, the statement is sealed in the fibreboard box with other official election material. In other towns, it is returned to the town clerk sealed in the envelope with the voting list or tally sheets. In any case, be certain that the certificate is safely kept.

(3) out of order sign

In some towns, an "out of order" sign is pinned to the curtain of the machine which needs to be repaired so that the election officers are aware that the machine cannot be used. In other towns, no sign is used since advertising that a machine has broken down sometimes causes unnecessary voter concern and complaints. In this case, be certain that all election

officers attending the machines are informed that the machine cannot be used.

In some towns, if the voting machine cannot be placed back in service for that election, the front doors are closed.

d. event to be recorded by election clerk

In many cases, the problem and how it was handled must be recorded by the election clerk in the election record. The record should include enough detail so that the exact nature of the problem and the procedures used can be easily understood. The person(s) taking each step required to solve the problem should be identified, at least by title if not by name. It is suggested that, in some cases, the voter's name and address also be included.

In 2. through 9. below, problems and possible solutions to these problems are outlined. Where applicable, the need for two election officers to be present, for a certificate of machine failure, for the subtraction of one or more votes and for the event to be recorded by the election clerk is indicated under the specific problem.

2. Large Red Handle does not Operate

a. will not move to right

(1) entrance button not pushed in

If the voter cannot move the large red handle to the right to close the curtains, it is usually because he has tried to move it before the election officer has had time to push in the entrance button. The election officer will be aware of this problem since the entrance button will not go in. Ask the voter to remove his hand from the large red handle and to wait a moment while you push the button.

(2) entrance button pops out

Sometimes, however, the entrance button pops out after it has been pushed in. In this case, the election officer should hold the button in until after the curtains are closed and the bell rings. Be certain that all election officers who attend that machine are aware of the problem.

It is suggested that the election clerk make a note of such a problem including the machine number and return it to the town clerk with the tally sheets or

the election record on election night. The voting machine custodians or, if necessary, a factory service representative, should be notified to make the appropriate adjustment before the next election. However if the problem cannot be corrected by then, be sure that the election officers who work at the next election are aware of it.

(3) obstruction in back of machine

When the large red handle is pushed to the right, metal bars at either end of the lowest compartment on the back of the machine move downward. Sometimes a pointer lockout wrench or other piece of equipment becomes lodged under these bars preventing the handle from moving. In this case, the custodian will need to be called to open the small lower door on the back of the machine with the No. 4 key and remove the obstruction. This problem can be avoided if the custodians place equipment in a box in the back of the machine after preparation is completed.

A certificate of machine failure should be completed and signed and the event recorded in the election record. No votes need to be subtracted from the public counter unless the custodian tested the machine after he removed the obstruction.

b. will not move to the left

(1) candidate pointers pushed up

The most common reason that the large red handle cannot be moved to the left is that the voter has pushed up the candidate pointers thinking that this will register his vote. This problem can usually be solved by talking to the voter through the closed curtains. One election officer can simply explain to the voter that he must push the pointers down and leave them down. Then when he pushes the large handle to the left, his vote is registered.

(2) write-in paper binds

Sometimes the write-in paper binds, particularly if a large number of write-in votes have been cast, making the large handle difficult to operate.

First, without pushing the curtains aside, one election officer should ask the voter to try again using more force.

If the voter still cannot move the handle, two election officers should investigate since the curtains will need to be pushed aside. In this case, the voter should not be asked to push up the candidate pointers since that will prevent the handle from moving. One of the election officers should try to move the large handle to the left pushing hard. In most cases, this will solve the problem. Other election officers who attend the machine later should be informed that the large handle is hard to move.

Note: The election officer should not exert extraordinary pressure on the large handle when trying to move it or he may damage the machine.

If the handle will not move, the warden should first check for write-in votes. Then he should move the voter to another machine and permit him to vote using the procedures outlined under 1. b. on page 99.

The warden should call the custodian. However, it is suggested that the warden push up all candidate pointers first since the custodian might not notice that they are down and votes may be recorded in error. The write-in paper roll may need to be replaced to solve the problem. If so, be certain that the removed paper is securely kept since it will be needed after the polls close to count the votes. Also be certain that the custodian enters the date, time and his signature on the new paper.

A certificate must be completed and signed. One or more votes will need to be subtracted from the public counter. The election clerk should record the event in the election record.

c. sticks part of the way to the left

Sometimes, the large red handle will move only part of the way to the left. This problem is usually caused by the write-in paper binding or by a pencil dropped down the slot jamming the handle. First, without pushing the curtains aside, the election officer should ask the voter to push the handle harder. If it still will not move, the procedure to use will depend upon the location of the handle when stuck.

Since the curtains must then be pushed aside, two election officers will have to investigate. In this case, the voter should not be asked to push up the candidate pointers.

First, the election officers should check to see if the write-in pencil may have been dropped into the handle slot. If so, they may be able to dislodge it.

One election officer should try pushing the large handle. If not successful, check the candidate pointers and the outside public counter. If the pointers are partially or all the way up and all the numbers on the public counter are fully exposed, the vote has been recorded. In this case, the large handle will be stuck slightly to the right of vertical or farther to the left. Assure the voter that his vote including any write-in votes he may have cast have been recorded. He should not be permitted to use another machine.

If, however, the handle is stuck farther to the right, the candidate pointers will still be down, unless the voter has voted only by write-in. Try to push the handle all the way to the right and then back to the left. If this does not solve the problem, the warden should first check for write-in votes. Then he should move the voter to another machine and permit him to vote. Use the procedures outlined under 1. b. on page 99.

The voting machine custodian will need to be called. A certificate must be completed and signed and one or more votes will need to be subtracted from the public counter. The event should be recorded in the election record.

3. Voter Pushes Large Handle to Left, then Reports Problem

Sometimes a voter pushes the large handle to the left to open the curtains and then reports a problem. In this case, there is nothing you can do for him except sympathize. He has already cast his vote and no voter after having registered his vote and emerging from the machine shall be permitted to re-enter it. [54:33C] He must have pushed at least one candidate pointer down or cast at least one write-in vote or the large handle would not have moved.

Note: In some of the older machines, the large handle will move to the left after a voter has pushed down candidate pointers and then pushed them back up again. However, he still cannot be permitted to re-enter the machine since there is no way to determine whether or not he pushed all candidate pointers up or voted by write-in.

If the term, "candidate pointer" instead of "candidate lever" and the term "large handle" instead of "voting lever" are used when instructing voters, they are far less likely to confuse the two and the problem outlined above will be less likely to occur.

4. Write-in Voting Problems

a. slot cover will not push up

Write-in slot covers cannot be locked closed except by pushing down candidate pointers. A voter should be able to push up the cover on any slot which can be seen on the machine at that election provided he has not already voted by pointer for the appropriate number of candidates under an office. However, on some machines, the covers require considerable pressure to open them.

First, without pushing the curtains aside, one election officer should ask the voter if he is trying to use a slot having the same number as appears under an office where he pushed down a candidate pointer. If so, explain that pushing the candidate pointer down locks the slot cover. He cannot vote for a candidate on the ballot and also write-in unless more than one candidate is to be nominated or elected. However he can unlock the slot cover simply by pushing up a candidate pointer.

If he has not pushed down a candidate pointer, or if there are two or more to be nominated or elected and the voter has pushed down only one candidate pointer, ask him to push harder on the slot cover.

If the problem is still not solved, ask the voter to push up all candidate pointers. Since the curtains will need to be pushed aside, two election officers should investigate. First determine which slot cover the voter tried to push up. He may have been trying to use the wrong slot. If not, the election officer should try pushing the slot cover as hard as possible.

If the problem is still not solved, test the candidate pointers under that office. If the correct number cannot be pushed down, the warden should move the voter to another machine and permit him to vote. Use the procedures outlined under 1. b. on page 99.

The voting machine custodian will have to be called. It is likely that the machine was not properly programmed to permit the correct number of candidate pointers to be used. A certificate should be completed and signed and at least one vote will need to be subtracted from the public counter. The event must be recorded in the election record.

b. voter cannot find a slot having the correct number

In some towns, write-in slots, except those numbered one through the number of the column used for the last

candidate on the ballot, are covered by metal plates to prevent voters from casting write-in votes in unused columns. In other towns, the write-in slots from one through two or three numbers beyond the last used column are not covered since it is difficult to write in a slot immediately adjacent to the metal plate.

Before pushing the curtains aside, an election officer should ask the voter what slot number he wants. If that number is not being used, explain to the voter that a write-in entered in that slot will not be counted and give him instructions for write-in voting.

If the number is one which is being used in the election, it should not be covered. Ask the voter to push up any candidate counters he has pushed down. Since the curtains will need to be pushed aside, two election officers should investigate. Check to see if the slot the voter wants is covered. If not, point it out to the voter. If the slot is covered, the the warden should check for write-in votes elsewhere on the machine and move the voter to another machine. Use the procedures outlined under 1. b. on page 99.

The warden should call the custodian to adjust the metal plates covering write-in slots. A certificate will need to be completed and signed and at least one vote should be subtracted from the public counter. The event should be recorded in the election record.

Note: If the custodian is in the polls, the metal plate(s) can be adjusted very quickly. The voter may wait in the machine while the work is being done and then continue voting on the same machine. In that case, no votes should be subtracted from the public counter.

c. name already written in

If the voter reports that he found a name already written in when he pushed up the slot cover, ask the voter to push up all candidate pointers he has pushed down. Since the curtains will need to be pushed aside, two election officers should investigate.

If the voter's report is accurate, the warden should move the voter to a new machine and permit him to vote.

The warden should call the custodian. The write-in paper was probably not wound tightly around the lower roller and did not move when the previous voter registered his vote. A certificate will be need to be completed and signed. One or more votes will need to be subtracted from

the public counter. The event should be recorded in the election record.

Note: Sometimes, when the lower roller has very little paper on it, a write-in vote will not completely disappear from view when the voter moves the large handle to the left. In this case, the next voter should enter his write-in vote in the remaining space on the paper under the slot cover.

d. no paper found under slot cover

Occasionally, a voter will report that there is no paper under the write-in slot he pushed up. Ask the voter to push up all candidate pointers he had pushed down. Since the curtains will need to be pushed aside, two election officers should investigate. Check the write-in slot to be sure the voter's report is accurate. If so, the write-in paper was not properly installed.

The warden should move the voter to another machine and permit him to vote.

The custodian will need to be called to install the paper properly. A certificate will need to be completed and signed and one or more votes will need to be subtracted from the public counter. The event should be recorded in the election record.

e. pasters or stickers jam the machine

If pasters or stickers are used to cast a write-in vote on a machine and the voter neglects to stick them on the paper securely, or they are not the correct size for the slots, they will sometimes jam the machine by preventing the paper roll from moving. In this case, the voter will probably report that he cannot move the handle all the way to the left and the election officers will not be able to move it either.

For procedures, see 2. b. (2) and c. on pages 103 and 104.

In this case, the machine will probably be placed out of service for that election, unless the custodian can free the paper roll. A certificate should be completed and signed. One or more votes may need to be subtracted from the public counter. The event should be recorded in the election record.

5. Problems with Candidate Pointers

a. candidate pointer lockout missing

Sometimes a candidate pointer lockout, particularly one covering a single pointer, becomes loose and falls off. Usually this problem is noticed by an election officer during the regular inspection either before the polls open or during the day when a machine is unoccupied. (see X. REGULAR INSPECTION OF VOTING BOOTHS OR MACHINES on page 120) He should report it to the warden.

If, however, a voter in the machine reports this problem after he has closed the curtains, tell him it will not affect the operation of the machine and that he should continue voting. Then report to the warden.

The custodian should be called to replace the pointer lockout. The work can be done without closing the curtains and no votes will need to be subtracted from the public counter. In some towns, a certificate is completed to provide a record of the event. In other towns, no certificate is completed, but the event is recorded in the election record.

b. candidate pointer covered (locked out)

Occasionally during preparation, a candidate pointer, usually at the end of the ballot, is locked out in error or a lockout cover is not removed. If the election officer notices this error when the machine is unoccupied, he should report it to the warden immediately and not permit a voter to use the machine until the error is corrected. The custodian will need to be called to make the appropriate adjustment. The work can be done without closing the curtains and no vote will need to be subtracted from the public counter. The event should be recorded.

However, if the error is not discovered until a voter reports that he cannot vote for the candidate(s) under an office, ask him for the office title directly above the covered pointer(s). If there are no candidates on the ballot for that office, explain that the pointers are covered because only write-in votes may be cast. If necessary, give the voter instructions in write-in voting.

If, however, the pointer is one being used at the election, ask the voter to push up all candidate pointers he has already pushed down. Since the curtains will need to be pushed aside, two election officers should investigate. If the voter's report is accurate, the custodian will need to adjust the machine.

If only a single lockout needs to be removed and the custodian is at the polling place, the adjustment can be made very quickly and the voter may wait in the machine while the work is being done if he wishes. When the work is completed, the voter should continue voting on the same machine.

If, however, the adjustment will take several minutes, the warden should first check for write-in votes. Then the voter should be moved to another machine and permitted to vote. Use the procedures outlined under 1. b. on page 99.

In either case, a certificate should be completed and signed. One vote should be subtracted from the public counter only if the voter was moved to another machine. The event should be recorded in the election record.

The custodian should be instructed to test the machine more carefully to avoid this kind of problem in the future. Also, instruct election officers to check candidate pointers on each machine more carefully before the polls open.

c. candidate pointers will not go down

There are several reasons that a candidate pointer cannot be pushed down as follows:

(1) voter pushed up write-in slot

If the voter pushed up a write-in slot either to peek or by mistake, the appropriate number of candidate counters for that office cannot be pushed down. The election officer should ask the voter to push up all candidate pointers he has pushed down. Since the curtains will have to be pushed aside, the election officer should investigate.

First, try pushing down the candidate pointers under that office. If they cannot be pushed down, the warden should check for write-in votes. Then he should move the voter to another machine and permit him to vote. Use the procedure outlined under b. 1. on page 99.

The machine can be released by pushing the large handle to the left. One vote should be subtracted from the public counter. A certificate of machine failure may be completed but is not required. The event should be recorded in the election record.

Note: When giving instructions for write-in voting, if the election officers suggest that the voter

vote first for the candidates he wishes whose names appear on the ballot and then vote for his write-in candidate(s), the kind of problem outlined above will be minimized.

(2) machine not properly programmed

If the machine has not been properly programmed for a particular office, the correct number of candidate pointers cannot be pushed down. The election officer should ask the voter to push up all candidate pointers he has pushed down. Since the curtains must be pushed aside, two election officers should investigate.

First check the write-in slots for that office. If none are loose, test the candidate pointers. If they cannot be pushed down, the warden should first check for write-in votes elsewhere on that machine. Then the voter should be moved to another machine and permitted to vote. Use the procedures outlined under 1. b. on page 99.

The warden should call the custodian to adjust the back of the machine. A certificate will need to be completed and signed. At least one vote will need to be subtracted from the public counter. The event should be recorded in the election record.

(3) machine not adjusted properly

Sometimes candidate pointers are hard to push down if there is a large number of candidates to be elected to an office or if the office is at the end of the ballot.

First, if the voter had a problem under an office having a large number of candidates, or one at the end of the ballot, ask him to try again pushing harder on the pointers. If that does not solve the problem, ask the voter to push up all pointers he has pushed down. Since the curtains will need to be pushed aside, two election officers should investigate.

The election officer should push down the permitted number of candidate pointers under every office starting with the first one on the ballot. If only the pointers under the problem office are tested, they may work properly but the voter will encounter the same problem when he tries to vote again.

If all the pointers work, but are simply difficult to push down, have the voter vote in that machine, if

possible. Otherwise, the warden should move the voter to another machine and permit him to vote.

Note: If the election officers found, in testing the candidate pointers, that the voter cast a write-in vote, use the procedures outlined under 1. b. on page 99.

In either case, the custodian should be called to adjust the problem machine since all pointers should move easily. A certificate will need to be completed and signed. At least one vote will need to be subtracted from the public counter. The event should be recorded in the election record.

6. Voter Decides Not to Vote

The method for handling this problem will depend upon whether or not the voter has been checked in and, if checked in, whether or not he has entered a machine and closed the curtains.

a. voter not checked in

Sometimes, after studying the specimen ballot near the check-in table, a voter decides he does not want to vote. In this case, since he has not been checked in and has not been given a voter authority certificate, he may simply leave the polls.

b. voter checked in but has not closed the curtains

Sometimes a voter who has been checked in and received his voter authority certificate decides not to vote after he examines the ballot while standing in front of the voting machine or in the machine with the curtains open. There are three methods which may be used to handle the problem and in each case, the event should be recorded in the election record.

(1) If he has not given the certificate to the election officer attending the machine, he should be asked to surrender it. If he has given the election officer the certificate, remove it from the receptacle. Obtain the voter's name and address. Have the election officer in charge of the check-in voting list enter next to the voter's name "do not count" and make two or three slanted lines through the mark made when the voter checked in.

Enter on the certificate "voter decided not to vote" and give it to the election clerk who should keep

it as part of the election record. If the entrance button has been pushed in, be sure that all the election officers attending the machines know why and that the next voter may use that machine.

(2) If he has not given the certificate to the election officer attending the machine, he should be asked to surrender it before leaving the polls. It should then be placed in the receptacle. The voter or, if he is unwilling or has already left the polls, two election officers of different parties should then enter the machine, close the curtains and push up a write-in slot. The large handle should then be pushed to the left. In effect, a blank for each office has been cast and the machine is ready for further use.

(3) If he has not given the certificate to the election officer attending the machine, he should be asked to surrender it and it should be placed in the receptacle. Two election officers of different parties should enter and release the machine using the custodian's latch. The effect is the same as casting one blank vote for each office but some time may be saved after the polls close since the write-in paper will not have to be removed unless write-in votes are subsequently cast by voters.

Note: In some towns, only the warden is permitted to handle this type of problem. However, if the warden enters a machine and uses the method outlined in (2) or in (3) above, he should have an election officer of a different party in the machine with him.

c. voter checked in, did not close curtains, disappeared

Sometimes a voter, who has been checked in, decides not to vote while waiting for an election officer to direct him to a machine. He leaves the polls without being noticed taking his voter authority certificate with him.

In this case, nothing can be done. The count of names marked on the voting list will be one more than the number of ballots cast after the election. If, after every possible method of balancing the voting list with the ballots cast has been tried without success, such an event may be the only explanation for a discrepancy.

d. voter checked in, closed curtain and decided not to vote

In this case, the voter usually will ask an election officer what to do. He may be instructed to push up a

write-in slot but not write anything. Then push the large handle to the left. A blank for each office will be recorded.

Since the election officer has, in effect, only given the voter instructions, no certificate is needed and the event does not need to be recorded in the election record.

7. Voter Closed Curtains But Did Not Open Them to Leave

Sometimes a voter will enter a machine, close the curtains and vote, but will not move the large handle to the left to register his vote and open the curtains. Or, the voter decides not to vote and cannot push the large handle to the left to open the curtains. He simply pushes the curtains aside by hand and leaves the polls.

In either case, the election officer attending the machines will find an unoccupied machine with the curtains closed. First, check with the warden to be certain that the machine is not in need of repairs. Then either the warden and an election officer of a different party, or two election officers of different parties should enter the machine.

If candidate pointers are down or if a write-in vote has been cast, the large handle will move to the left and the vote cast by the departed voter will be registered. No further action needs to be taken to release the machine for use by other voters.

However, if the large handle cannot be pushed to the left the departed voter did not vote. The machine can be released either by pushing up a write-in slot or by using the custodian's latch. (See 6. b. (2) and (3) on page 113)

A certificate is not needed but the event should be recorded in the election record. No votes should be subtracted from the public counter since, in effect, the election officers have recorded the vote as cast by the departed voter either for candidates of his choice or a blank for each office.

8. Primaries

Additional problems may occur in primaries as follows:

a. both parties on each machine

If both parties appear on each machine, the party lever at the end of the machine just above the number 2 lock must be used. The election officer must look at the party entered on the voter authority certificate and set the lever to the appropriate party before he pushes the

entrance button. However, sometimes an election officer leaves the lever on the wrong party by mistake and a voter closes the curtains before the error is noticed. In this case, the voter will usually report that he cannot push any pointers down or that he cannot vote for the candidates of his party.

The election officer should first be certain whether or not a mistake in the party lever setting was made. Compare the party on the voter authority certificate with the setting on the lever and, if necessary, with the voter's party shown on the voting list.

- party lever properly set

If the party lever has been properly set, inform the voter that the candidate pointers for the party shown on his voter authority certificate are to be used. If the party was printed on the voting list but he does not wish to vote in that party, he may cast a blank for all offices by pushing up a write-in slot but not writing in. If he was unenrolled before he checked in, he may change his party. (see c. below for procedures)

- party lever not properly set

If the party lever is set on the wrong party, ask the voter to push up any candidate pointers he has pushed down. The warden and an election officer of a different party should push the curtains aside and check for write-in votes. Use the procedures outlined under 1. b. on page 99. The voter should then be moved to another machine and permitted to vote after the party lever on that machine has been set on the correct party.

The machine can be released for use by other voters by pushing up a write-in slot or by using the custodian's latch. (see 6. b. (2) and (3) on page 113) In this case, a certificate may be completed but is not required and one vote should be subtracted from the public counter. The event should be recorded in the election record.

Or, an election officer of the appropriate party, who has not yet voted, can check in and vote on the machine, unless a write-in has been obliterated in a slot the election officer wishes to use. No certificate is required but one may be completed. No votes need to be subtracted from the public counter. The event should be recorded in the election record. If a write-in has been obliterated, however, use one of the methods outlined in the paragraph above.

Note: In some towns, election officers who are registered voters in the precinct in which they work on election day are asked not to vote until late in the day so they will be available to vote on a machine under these circumstances.

It is suggested that you do not ask a voter other than an election officer to use the machine. Since the average voter does not understand the procedure, he may become upset by being asked to use a machine with the curtains already closed or he may suspect that some inappropriate or illegal procedure is being used.

b. one party on each machine

Sometimes an election officer will direct the voter to the wrong machine but the error will not be detected until a problem is reported by the voter after he has closed the curtains.

The procedures in this case are the same as outlined under 8. a. - party lever not properly set except that no party lever is involved.

c. unenrolled voter wants to change party after checking in

An unenrolled voter may decide to change the party he chose when he checked in even though he has entered a voting machine and closed the curtains. First follow the procedures outlined in IX. G. 2. on page 94 for correcting the voting list and voter authority certificate. Then follow the procedures outlined under 8. a. - party lever not properly set on page 115.

9. All Voting Machines Fail at the Same Time [54:31; Regs. 52.03(14)(d)]

While having all voting machines in the polling place break down at the same time is very unlikely, the General Laws and the Regulations specify procedures to be used in that event.

Voting must continue using the supply of absentee ballots required to be provided for this purpose. The voter should be checked in as usual except that an entry, such as "B" for ballot, must be made next to the voter's name on the voting list in addition to the line or check mark. The election officers should enter "cast due to machine failure" on the absentee ballot and give that to the voter instead of a voter authority certificate.

Note: 54:31 requires that the entry be made on the back of the absentee ballot. However, the Regulations do not contain

this requirement and there is little room on the back of the ballot since absentee voting instructions are printed there.

The voter should be directed to the paper ballot booth and permitted to vote. After he has voted, he must fold the ballot and then place it in the top of the ballot box with the title and official endorsement up.

An election officer should be stationed at the ballot box to crank in the ballots as they are deposited. The names of voters casting absentee ballots due to machine failure are not announced at the ballot box nor marked on a voting list at that time. The names are announced and marked only at the check-in table.

As soon as the machines are repaired, voting by absentee ballot should be discontinued.

The election clerk should record the details of the event in the election record book.

J. PUNCH CARD PROBLEMS [Regs. 54.02(7)] (see X. REGULAR INSPECTION OF VOTING BOOTHS OR MACHINES, C. on page 122)

The Regulations require that marking units shall be tested frequently throughout the day. The election officer should punch a vote for each candidate and question on the ballot using a separate demonstrator card for each unit. Each card should be checked immediately after punching to be certain holes are clean with no hanging chads and in the proper location.

If the test card is not properly punched, the light should be turned off and the unit turned upside down or removed from the booth. Inform the warden that the unit is not operating properly. If possible, the unit should be repaired and put back into service or replaced. The repaired or new unit should first be tested using a demonstrator card.

In some towns, each marking unit is numbered. The demonstrator card is marked with the precinct and with the unit number, 1-1, 1-2, etc. Keep the cards together with an elastic band and attach a note such as "Test, [hour] [date]."

If a voter reports that his ballot card has not been properly punched, have the voter turn in his ballot as spoiled and obtain a new one. (see IX. C. SPOILED BALLOTS on page 79) Immediately turn the problem marking unit over and turn out the light or remove it from the booth to be certain that another voter does not use it. A repaired or new unit should be tested using a demonstrator card before being placed into service in that booth.

Occasionally a voter tries to insert a card in the marking unit without first removing the gray write-in envelope. If so, part of the envelope may get stuck under the plastic cover. The next voter will probably report that he cannot insert his ballot into the unit. He should be directed to another unit and the problem unit immediately turned upside down or removed for repairs.

Note: In some towns, units are repaired on election day only if the voter turnout is heavy and the unit is needed to prevent long waiting lines.

K. LONG VOTER WAITING LINES

Long waiting lines may form at the check-in table at any election if the voter turnout is unusually heavy. However, lines usually form only at November elections when the turnout is heavy and there are a number of questions on the ballot.

Some steps can be taken to reduce waiting lines as follows:

1. Place Voting Booths or Machines Close to Check-in Table

Arrange the polling place so that the voting booths or voting machines are close to the check-in table and the distance a voter must walk from the table to the booth is as short as possible. (see III. PREPARING POLLING PLACES FOR AN ELECTION, A. 2. and 3. in Volume 3 of this series)

2. Publicity

In some towns, additional news releases are prepared and distributed prior to an election when waiting lines are likely, encouraging all voters who can to vote during the hours when voter turnout is usually low. The news media will usually cooperate in providing extra publicity. The releases should be short but the suggested hours should be included. Note that if you simply ask voters to vote early, you may have lines all morning and none in the afternoon.

3. Efficient Election Officer to Mark Voting List

When lines start to form, be certain the election officer finding and marking names on the voting list at the check-in table is efficient. If an election officer is inexperienced or having a vision problem or slow, the duty assignments should be changed so that he hands out ballots or voter authority slips instead of marking the list.

4. Move Maximum Number of Voters Inside the Guard Rails
(see IV. B. 5. on page 39)

By moving the maximum permitted number of voters inside the guard rails after they have been checked in, the time required for a voter to walk from the line to the voting booth or machine can be reduced.

In paper ballot and punch card towns, an election officer should be stationed to direct the first voter in line to a voting booth as soon as it becomes available. Waiting voters do not always immediately notice that a booth is empty.

In voting machine towns, the election officers attending the machines, should move the first voter in line to the empty machines as soon as the curtains open. Attentive election officers can hear the handle being moved to the left and will know which machine is about to be available.

The few seconds saved by having each voter closer to the booths or machines, when multiplied by the large number of voters appearing at the polls, may significantly reduce the waiting lines, particularly in voting machine towns where the number of voters waiting inside the guard rail may be equal to twice the number of machines. For example, if each voter saves only 3 seconds in moving from the line to the voting booth, 1,000 voters will take 50 minutes less time to vote and that time will be available to other voters.

5. Hand-Out Information on Ballot Questions to Waiting Voters

At November election, the time required for each voter to vote once he has entered the voting booth or machine can be significantly reduced by encouraging each voter to decide how he wishes to vote on the ballot questions before he is checked in at the polls.

In some towns, a one-page flyer and answer cards are mailed to voters before the election to supplement the Information For Voters pamphlet mailed by the state secretary. Voters mark their answers on the card and bring it with them to the polls so they do not have to read the ballot questions there on election day. (see PREPARING ELECTION MATERIAL, VI. MISCELLANEOUS, B. 5. b. in Volume 3 of this series)

In addition, the Information For Voters pamphlets required to be available at the polling place or, if used, extra copies of the one-page flyer and answer cards can be handed out to the waiting voters. The person handing out this material should encourage voters to decide, while waiting, how they want to vote. Inform them that the line will move much more quickly if they do so.

6. Divide Voting List

If lines are caused by the check-in process rather than the number of marking compartments or voting machines available at the polling place, the voting list may be divided approximately in half to permit two lines at the check-in table. The decision to divide the list should be made well before the election so that additional election officers can be scheduled and that appropriate signs can be posted to direct voters to the correct line.

Note: The voting list must not be divided by having male and female voters on separate lists.

If a line also forms at the check-out table, that list may also be divided the same as the check-in list. However, if more than one ballot box is to be used, the selectmen should be contacted well before the election since they must vote to do so even if an extra box is already available. (see 54:67A) (also see II. EQUIPMENT, B. BALLOT BOXES in Volume 3 of this series)

Note: In many towns, the warden or town clerk moves elderly or physically handicapped voters to the check-in table rather than requiring them to wait in a long line. Waiting voters almost never object to this practice if it is obvious the person is unable to stand in line for a long time. In some towns, chairs are provided for elderly or handicapped voters while waiting in line.

X. REGULAR INSPECTION OF VOTING BOOTHS OR MACHINES

In all towns, regardless of the type of voting system used, the election officers should regularly inspect all voting booths or machines during election day. [54:33B,33E,65; Regs. 51.03(22)(b), 52.03(18)(b), 54.03(22)(b)]

A. ALL VOTING SYSTEMS

1. Campaign Material or Other Papers [54:65; Regs.]

Occasionally a voter will leave campaign material or other papers in a voting booth or machine after he has finished voting. If such material or papers are found, they should immediately be removed. Campaign material should be thrown away or placed where it cannot be seen by anyone in the polling place. If the voter's papers are of some importance, they should given to the warden who may attempt to return them to

the voter or send them to the town clerk's office on election night so they can be returned to the voter after the election.

2. Marks on Instructions, Copies of Ballot Questions, etc.

The instructions and copies of ballot questions, if any, taped inside the booth or machine should be examined. In voting machine or punch card towns, sometimes a voter will mark a write-in vote on the instructions rather than under a write-in slot or on the gray write-in envelope. A voter sometimes marks his answers to ballot questions on the copy taped in the booth or the machines. If any instructions or copies of questions are found to be marked, they should be replaced immediately.

3. Missing Equipment or Instructions

The election officers should check to be certain that instructions, etc. are all in place and in good condition. Any missing or torn instructions should be replaced.

The pencil provided in each voting booth or machine should be checked regularly. Broken or dull pencils should be replaced.

B. VOTING MACHINE TOWNS [54:33B]

The election officers attending the voting machines shall, from time to time, inspect the face of the machine to see that neither the ballot labels nor the candidate pointers have been tampered with or injured.

1. Marks on the Machine

The most common marks found on the machines are made by voters attempting to vote by write-in using the wrong procedures. Pen or pencil marks on the metal can usually be erased fairly easily.

2. Marks on Labels

Sometimes marks are made on the plastic ballot label cover and these may be difficult to remove. If the voting machine custodian has forgotten to install the label cover, marks found on the label itself probably cannot be entirely removed. In this case, a custodian will have to be called to install a new ballot label or plastic cover. (see IX. 1. VOTING MACHINE PROBLEMS, 1. c. on page 100)

3. Candidate Pointers

It is almost impossible to damage a candidate pointer without a hammer or screw driver. However, candidate pointers

should be checked to be certain that lockout covers have not fallen off and that all candidate pointers to be used are not covered. (see IX. I. 5. on page 109)

C. PUNCH CARD TOWNS (EXCEPT DATAVOTE) [54:33E; Regs. 51.02(7)]

1. Marked Ballot Booklets

When the marking units are being tested (see IX. J. on page 117), the election officer should also check each card in the ballot booklet. Sometimes voters write on the booklet cards or attempt to punch the booklet card instead of the ballot card. If any booklet is found to be marked or damaged, the light should be turned off, the unit turned upside down and the warden notified.

If extra ballot booklets already installed in frames have been provided at the polling place, the warden can install and seal the new booklet quickly. The marking unit can then be placed back into service. If only extra ballot booklets are available, the frame will have to be taken out, the defective ballot booklet removed, the new one installed and the frame sealed. This process will take somewhat longer and the marking unit should be removed from the booth for repairs. (see II. EQUIPMENT, L. ELECTRONIC VOTING SYSTEMS, 4. b. in Volume 3 of this series)

If a sufficient number of extra ballot booklets has not been provided at the polling place, the town clerk should be notified.

2. Defective Styluses

If a stylus is bent or broken it should be replaced or the light turned off and the unit turned upside down. [54:33E; Regs.]

Note: In some towns, ballot booklets and styluses are not replaced on election day, unless the voter turnout is very heavy and the unit is needed to prevent long waiting lines. The unit is either turned upside down or removed from the booth.

XI. OBSERVERS

To achieve the legal requirement that the election be held in public view, observers shall be allowed inside the polling place outside the guard rail, unless they are disorderly or obstruct the access of voters. [Regs. 51.03(22)(a), 52.03(18)(a), 54.03(22)(a), 55.06]

Note: Observers should not be confused with supervisors or challengers. The provisions related to observers appear in the Regulations and these observers have no official function at an election. The General Laws do not specifically mention them. On the other hand, supervisors are appointed by the governor under 54:23. (see ELECTION OFFICERS in Volume 3 of this series) Challengers are appointed by a political state or town committee under 54:85A. (see IX. D. CHALLENGED BALLOTS on page 80) Both supervisors and challengers do have an official function at an election.

Exceptions: Any observer in the polling place may challenge a voter. (see IX. D. CHALLENGED BALLOTS on page 80) In punch card towns, a qualified computer expert may be appointed in writing by the chairman of each political town committee to observe the proceedings at the tabulation center. [54:33H; Regs. 55.06(1)]

A. WHO MAY OBSERVE

Anyone who desires to observe the election at the polling place should be permitted to do so. Candidates or their workers and representatives are often present to observe all elections. At state primaries and elections, representatives from the metropolitan and national media are often also present.

In many towns, classes of school children are brought to the polls, particularly if the election is held in a school building. Also, youth groups such as Boy or Girl Scouts, etc. often visit polling places on election day.

The warden should be certain that the observers do not obstruct the voters' access to the check-in table, particularly when a large number of observers is present. (see D. 1. Interfering with Voters on page 125)

Note: In punch card towns, observers authorized by candidates may also observe at the tabulation center, as space permits. [Regs. 55.06(2)]

B. PLACEMENT

Usually candidates or their workers want to be as close to the check-in table as possible so they can hear the voters' names and addresses as they are checked in to vote. In many towns, a table and chairs are provided at that location. (see ELECTION FACILITIES & EQUIPMENT, III. PREPARING THE POLLING PLACES FOR AN ELECTION, B. 3. e. in Volume 3 of this series) However, they may be permitted to stand or sit at other locations outside the guard rails if they wish.

Media representatives sometimes want to be near the check-in table to take pictures of the election activity. In some towns, a media representative who is also a registered voter in the town is permitted to take his camera with him when he enters to vote. After voting, he may take pictures provided he does not remain within the guard rails for more than a total of 10 minutes including the time he takes to vote. (see IV. C. 6 on page 42) In other towns, election officers are permitted to take pictures within the guard rails for media representatives.

At November elections, media representatives may request permission to conduct exit interviews. In this case, it is suggested that you permit them to do so, but only in a specified location far enough away from the voting room exit so that they do not interfere with voters who wish to leave without being interviewed and only as long as voters do not object. Note that the 150 foot rule appearing in 54:65 does not apply to media representatives engaged only in conducting exit interviews.

Note: In punch card towns, the warden should assign a computer expert appointed by a political town committee chairman to a position outside the barrier at the tabulation center which will enable him to observe all operations. [54:33H]

In any event, observers cannot be permitted within the guard rails even for a short period of time, unless they are in the process of voting. (see XII. B. PERSONS WITHIN GUARD RAILS on page 128)

C. OBSERVER ACTIVITIES PERMITTED

1. May Record Names and Addresses on Voting List

Usually, prior to an election, observers, candidates, or their workers obtain one or more copies of the voting list. These lists may be used to record the names of voters as they are announced by the election officer at the check-in table.

An observer may ask to have a name and address repeated if it has not been announced loudly enough to be heard. However, the request should be made before the voter has been given his ballot or voter authority certificate and permitted to proceed beyond the check-in table. After that time, election officers should not repeat the name and address since doing so would violate the provisions of 54:68.

2. Other Records

Observers may make whatever notes or records they wish on paper they bring with them. They may use tape recorders or radio broadcasting equipment, such as walkie-talkies, to record

or broadcast the names and addresses of voters who have been checked in to vote. [54:76] (see D. 3 below)

3. May Request Number of Persons who have Voted [54:68]

Frequently during an election day, observers request the number of persons who have voted. If so, the election officers may give out the numbers registered on the ballot box in paper ballot and punch card towns. In voting machine towns, the numbers registered on the outside public counters may be given out.

However, an election officer should not leave the check-in table to obtain this information. Instead, he should call the warden to the table to let him know that the request has been made.

4. Conversations

Observers may converse with each other, with candidates or their representative as long as such conversations do not disrupt the voting process. (see D. 2. below) They may be asked by the warden to share information, particularly if there are a large number of observers.

D. OBSERVER ACTIVITIES PROHIBITED

There are certain activities, specially related to observers at the polling places, which are prohibited. If observers refuse to obey the warden's orders to cease these activities, they may be asked to leave the polling place or, if necessary, they may be detained by the police officer. (see XII. E. DISORDERLY CONDUCT on page 133)

1. Interfering with Voters

Observers are prohibited from interfering with voters who are entering the polling place or who are in the process of being checked-in. An observer cannot stop a voter on his way to the check-in table and discuss candidates or issues with the voter or insist that he give his name and address.

2. Disrupting Voting Process

If loud conversations or extended conferences disrupt the voting process, the observers should be asked to talk more quietly or if necessary, to leave the area near the check-in table. (see XII. E. on page 133)

3. Tape Recordings or Radio Broadcasts [54:76]

Electronic means, such as tape recorders or radio broadcasting equipment, cannot be used for recording or broadcasting the names of voters not yet checked as having voted. (see C. 2. above)

4. Campaign Material [54:65; Regs. 51.03(22)(c), 52.03(18)(c), 54.03(22)(c)] (also see XII. C. CAMPAIGN MATERIAL on pages 128-132)

Observers in the polling place are prohibited from having any visible campaign material. (see list of prohibited items under XII. C. 2. on page 129) Election officers should check to be certain that observers are not wearing any campaign buttons or tags containing a candidate's name or logo or buttons, tags or logos generally associated with a ballot question. Note that candidates' workers often change during the day so that election officers should check them periodically throughout the election.

Note: In some towns, written information outlining permitted and prohibited activities is provided before election day to candidates and their workers. In other towns, a memo outlining the General Law provisions is sent to each contested candidate before election day. (see PREPARING ELECTION MATERIAL, VI. MISCELLANEOUS, B. 4. in Volume 3 of this series)

5. Penalties [56:29,30]

The penalty on whoever wilfully or without lawful authority hinders, delays or interferes or aids in hindering, delaying or interfering with a voter while on his way to a primary or election is a fine of not more than \$500.00 or imprisonment for not more than 1 year. [56:29]

The penalty on whoever wilfully obstructs the voting at a primary or election is a fine of not more than \$100.00. [56:30]

XII. PROHIBITED ACTIVITIES

Certain activities outlined below are prohibited in or near a polling place. The warden has the power to enforce compliance with the law and may require the police officer, a constable, or other person to communicate his orders and directions and to assist in their enforcement. [54:71]

The warden may require that a police officer, constable or other person take into custody someone who refuses to obey the warden's lawful commands or whose disorderly conduct interrupts or disturbs the proceedings. However, the order of detention cannot be so enforced as to prevent a registered voter from voting. [54:74]

Every election officer shall forthwith report every violation of the provisions of 54:65-85 and 54:104-137 to the police officer or constable at the polling place who shall cause the offender to be prosecuted. [54:75] Police officers and constables shall arrest without a warrant any person detected in the act of violating any provision of chapters 50 through 56 of the General Laws. [56:57]

The penalty for wilfully disobeying the lawful commands of an election officer is a fine of not more than \$100.00 or imprisonment for not more than one month. [56:47]

A. BALLOTS

1. Not to be Removed from within Guard Rails [54:84; 56:54; Regs. 51.03(18), 54.03(18)]

No person shall remove a ballot from the space enclosed by the guard rails before the polls are closed. This provision of the General Laws and the Regulations prohibits an election officer or the town clerk from taking a ballot to anyone outside the guard rails and permitting him to vote there even if the person is handicapped or elderly and cannot come into the voting room. [54:84; Regs.] (see POLLING PLACES, III. 7. Accessibility in Volume 3 of this series)

The penalty for removing a ballot from within the guard rails before the polls are closed is imprisonment for not more than one year. [56:54]

2. Marks on Ballots [54:80; 56:25]

No person shall place a mark against any name on a ballot not cast by himself, unless the voter is prevented by physical disability or by inability to read or to read English from marking his own ballot. [54:80] (see 54:79 and IX. B. VOTER REQUESTS ASSISTANCE on page 78)

No voter, election officer or other person shall place on a ballot any mark by which it may be identified, unless the ballot has been challenged (see IX. D. CHALLENGED BALLOTS on page 80) or the voter has marked an escrow ballot (see IX. E. ESCROW BALLOTS on page 85). Marks by which a ballot may be identified are a voter's name or initials. [54:80]

The penalty for placing an identifying mark on a ballot is a fine of not more than \$100.00 or imprisonment for not more than 6 months. [56:25]

B. PERSONS WITHIN GUARD RAILS [54:69; Regs. 51.03(24), 52.03(20), 54.03(24)]

All persons, except those listed below, are prohibited from the area within the guard rails from the time the polls open until the public declaration of the vote:

- the election officers while on duty, except that an election officer and his deputy cannot be within the guard rails at the same time (see 54:16)
- police officers, constables or other persons with the permission of the warden and for the purpose of maintaining order or enforcing the law
- the town clerk or his representatives
- supervisors appointed under 54:23
- voting machine custodians when acting in the course of their duties
- voters in the process of voting
- persons assisting voters who are physically disabled or who cannot read or read English (see 54:79)
- children accompanying a voter, unless the warden deems that the admittance of such children would disrupt the maintenance of order. In most towns, children under voting age are allowed to accompany their parent(s).

Note: In voting machine towns, candidates or their authorized representatives must be permitted to examine the proof sheets and printer packs or if non-printomatic machines are used, the counters on the back of the machines. However, such examination must take place before the polls open or after the vote is announced. (see 54:35 and 54:35B)

C. CAMPAIGN MATERIAL [54:65; Regs. 51.03(22)(c), 52.03(18)(c), 54.03(22)(c)]

54:65 and the Regulations specify the requirements with respect to campaign material on a primary or election day.

1. Where Prohibited

Campaign material is prohibited in the following locations:

- in the polling place
- in the building where the polling place is located
- on the premises on which the building stands defined in the Regulations as only the grounds in the immediate vicinity of the building, not the entirety of a large parcel of real property. For example, if a school building used as a polling place is located on a parcel of 40 acres, the entire 40 acres cannot be considered the premises for the purpose of prohibiting campaign material.
- within 150 feet of the building entrance door to a polling place. In some towns, the 150 foot boundary is marked by red stakes, tape or paint along the driveways or in parking lots adjacent to the building to assist both candidates' workers and the police on election day. (see POLLING PLACES in Volume 3 of this series) Note that the 150 foot rule applies to all doors of the building.

2. Items Prohibited

All campaign material intended to influence the voter in the primary or election being held is prohibited in the locations listed in 1. above, including the following items:

- posters
- cards
- handbills
- placards
- pictures
- circulars
- ballot pasters or stickers
- campaign buttons or tags containing the candidate's name or logo or the buttons, tags or logo associated with a ballot question

Campaign material related solely to a future election is not prohibited in the locations listed in 1. above.

Examples:

- A poster for a question to appear on the November election ballot could be placed at or near the polls during state primary.

- Campaign material for a candidate running at the next annual town election could be distributed at or near the polls during a November state election.
- A poster for a presidential candidate could be placed at or near the polls during the annual town election.

3. Specific Activities Prohibited

Campaign material may not be posted, exhibited, circulated or distributed in any of the locations listed in 1. above.

If a voter coming into the polling place to vote is wearing a campaign button, he should be asked to remove it. He may bring campaign material with him into the polls but it should not be visible to other persons in the polling place. He may be asked to keep it in his pocket or purse, except when he is actually in the voting compartment.

In some towns, candidates are permitted to stand outside the building entrance door or in the lobby to greet voters as they come in to vote. This activity is not prohibited by the General Laws or by the Regulations. However, if numerous voter complaints are received, candidates may be asked to move out of the lobby or away from the door to prevent interference with the voters' free access to the polling place. (see 56:29) A memo may be sent to contested candidates before the election giving them information concerning their activities at or near the polling place or containing the pertinent sections of the General Laws. (see sample memo in PREPARING ELECTION MATERIAL, VI. MISCELLANEOUS, B. 4. in Volume 3 of this series)

4. Enforcement

A police officer must enforce the law with respect to campaign material when directed by the town clerk or by the warden. If more than one police officer is on duty at the polls, usually one is specifically assigned the duty of keeping campaign material in the proper areas.

Unless the 150 foot boundary is clearly marked, candidates' workers tend to drift closer and closer to the polling place, often without realizing that they have overstepped the boundary. The police officer should remind them as often as necessary to move beyond the boundary.

The law should be enforced equally with respect to all persons with posters or distributing campaign material on election day.

5. Voter Complaints

If you receive complaints from voters that campaign material is being distributed or posted within 150 feet of the building entrance door, the complaint should be investigated immediately. If found to be justified, the activity should be stopped.

On occasion, however, you will find after investigation, that the activity is taking place beyond the 150 foot boundary. In this case, the town clerk, warden, or police officer is not empowered by the General Laws or Regulations to require that the activity stop.

Inform the person who complained of the requirements of the law and that no violation has occurred. If this does not satisfy him, you may refer him to the town official or board who has jurisdiction over the property on which the activity occurred, or, if on private property, to the property owner.

6. Special Provisions for Members of Police and Fire Departments

If there is a question on the ballot related to or affecting the condition of employment, including the hours of labor and compensation of members of a police or fire department, a member of the department, who is not on active duty, cannot be prohibited from distributing campaign material. However, he must do so at least 150 feet from the building entrance door to a polling place. [54:65, 2nd paragraph]

7. Penalties [54:65; 56:41,41A,42,43,43A]

The following penalties with respect to campaign material are provided in the General Laws:

- for violating the provisions of 54:65; a fine of not more than \$20.00. [54:65]
- for hindering or interfering with the lawful distribution of any circular, poster, card, handbill, placard, etc. intended to influence the action of a voter; a fine of not more than \$100.00. [56:43]
- for wilfully and with intent to injure the person in whose behalf such printed matter was distributed, removing it from any residential premises where it was delivered; a fine of not more than \$100.00. [56:43]
- for printing, posting or distributing or causing to be printed, posted or distributed a circular or poster designed to aid or defeat a candidate or ballot question

which does not contain the names of the chairman and secretary or of two officers of the political committee or other organization issuing it, or the name and residence of a person 18 years old or older who is responsible for it; imprisonment for not more than 6 months. [56:41]

- for using the name of a person as a sponsor on political ads, circulars, posters or publications without the person's express consent; a fine of not more than \$1,000.00 or imprisonment for not more than 6 months. [56:41A]
- for making or publishing or causing to be published a false statement in relation to any candidate which is designed or tends to aid or to injure or to defeat the candidate; a fine of not more than \$1,000.00 or imprisonment for not more than 6 months. [56:42]
- for publishing or causing to be published in any letter, circular, advertisement, poster or in any other writing any false statement in relation to any question submitted to the voters, which statement is designed to affect the vote on the question; a fine of not more than \$1,000.00 or imprisonment for not more than 6 months. [56:42]
- for using the word "veteran" as applied to a candidate in any circular, poster, card, handbill, picture or other printed matter, unless the candidate is a veteran as defined in 31:1 or unless the word "veteran" is accompanied by other words indicating the country for which he served; a fine of not more than \$500.00. [56:43A]

D. COLLECTING SIGNATURES ON ELECTION DAY [54:65; Regs. 51.03(22)(c), 52.03(18)(c), 54.03(22)(c)]

No person shall be allowed to collect signatures upon petitions, referendum petitions or nomination papers within 150 feet from the building entrance doors to the polling place. This provision of the General Laws and the Regulations prohibits the collection of signatures on any kind of petition, regardless of its subject matter, and on any nomination papers, regardless of the primary or election or the office for which the candidate is running, unless such activity is conducted beyond the 150 foot boundary.

E. DISORDERLY CONDUCT [54:74; 56:46]

Disorderly conduct, such as heckling, shouting, pushing, fighting, etc. is prohibited in or near the polling place. (also see F. below) If a person's disorderly conduct interrupts or disturbs the proceedings of an election, the warden may require any police officer, constable or other person to take him into custody and detain him until after the election. Usually, the warden would order the police officer or constable on duty at the polls to take such action.

The detention order cannot be enforced so as to prevent a person from voting if he is a voter at the polling place where he was detained. The warden may order his release at any time. [54:74]

The penalty for persistent disorderly conduct at a polling place and refusal to withdraw after having been notified by the warden, is a fine of not more than \$100.00 or imprisonment for not more than one month. [56:46]

F. SMOKING OR POSSESSION OF LIQUOR [54:73]

During an election, the following are prohibited in a polling place:

- smoking
- the possession of a lighted pipe, cigar or cigarette
- carrying into or keeping any intoxicating liquor

Any person who smokes or has lighted smoking materials or liquor in the polling place shall be deemed guilty of disorderly conduct. The warden must order such a person to remove the smoking material or liquor or to withdraw from the polls. If he does not obey the warden's order, the warden must have him removed.

Note: If a voter appears to be intoxicated, he cannot be prevented from voting. However, if he is sufficiently intoxicated to be disorderly and is disrupting the election, the warden can order him removed from the polls and detained. (see E. above)

Election officers and tellers who wish to smoke either during the election or while votes are being counted should first leave the voting room.

The penalty for failing to obey the warden's order is a fine of not more than \$20.00.

G. INTERFERING WITH ELECTION OFFICIALS [56:48]

Interfering or aiding and abetting any person interfering with an election commissioner, a town clerk or an election officer in the performance of his duties is prohibited. The penalty for doing so is a fine of not more than \$500.00 or imprisonment for not more than 1 year.

XIII. PROCESSING ABSENTEE BALLOTS AT THE POLLS [54:95; Regs. 51.03(27), 52.03(22), 54.03(27)] (also see ABSENTEE BALLOTS in Volume 3 of this series)

The term "processing" as used in this section of the manual and in the Regulations with respect to procedures to be used at the polls should not be confused with processing absentee ballots by examining the inner ballot envelope required by 54:94. It is the town clerk's responsibility, not the warden's, to determine whether or not an absentee ballot should be rejected.

The town clerk must transmit to the polling place(s), not later than one hour after the polls close, all absentee ballots received on or before the close of business on the day preceding the election which have not been marked REJECTED AS DEFECTIVE. [54:95] These ballots may be transmitted before the polls open with other official election material or sent sometime later during the day.

Absentee ballots received by the town clerk on election day and not marked REJECTED AS DEFECTIVE or REJECTED AS VOTED IN PERSON may be transmitted to the polling place(s) or may be counted in the registrars' office. [54:95]

To ensure that the absentee ballots arrive safely at the polling place(s), they should be sealed in a box or large envelope and transmitted by a police officer, the town clerk or his representative.

The warden must process the absentee ballots at the polls. In some towns, the warden and election clerk work together to process the ballots. The warden is not required to wait until after the polls close since ballots may be processed whenever time permits during election day after the polls open. [Regs. 51.03(27)(b), 52.03(22)(b), 54.02(22)(b)]

All absentee ballots received at the polls must be processed through the ballot box, unless the name has already been marked as having voted in person or the voter's name is not on the voting list or on the list of non-registered specially qualified voters. [Regs. 51.03(27)(c), 52.03(22)(c), 54.02(22)(c)]

Note: In some towns, rejected absentee ballots are also sent to the polling place(s) so they can be sealed in a fibreboard box with

other official election material on election night. In this case, the rejected ballots should be kept separate from the others and clearly marked. The warden should be certain that no rejected ballots are deposited in the ballot box.

To process absentee ballots, the following steps should be taken:

A. ARRANGE BALLOTS IN ORDER

The ballots should be arranged in the order in which the voter's name appears on the list. In some towns, the ballots are arranged in this order before they are transmitted to the polling place(s). If a supplementary list is being used, the ballots of voters whose names appear on that list have been separately arranged. Also, the ballots of voters whose names appear on the list of nonregistered specially qualified voters have been separately arranged. If so, considerable time can be saved on election day.

B. SEPARATE BALLOTS FROM APPLICATIONS

In many towns, each ballot is stapled or clipped to the related application before the affidavit on the inner envelope is examined by the town clerk in his office. If so, they may be separated at this time, but this is not required.

C. ANNOUNCE VOTER'S NAME AND ADDRESS

The absentee voter's name and address appearing on the return envelope must be announced at the polls. In primaries, the party must be announced as well. This should be done at or near the check-in table to provide an opportunity for the ballot to be challenged.

If an absentee ballot is challenged, the warden should follow the procedures outlined under IX. D. CHALLENGED BALLOTS, 5. on page 84. [Regs. 51.03(27)(g), 52.03(22)(g), 54.03(27)(g)]

In paper ballot and punch card towns, the voter's name and address must also be announced at the check-out table before the ballot is deposited in the ballot box. It may be challenged at that time although challenges usually are made at the check-in table.

D. MARK VOTING LIST [Regs. 51.03(27)(d), 52.04(22)(d), 54.03(27)(d)]

A mark must be made on the voting list, supplementary list or list of nonregistered specially qualified persons, to indicate

that the ballot has been cast. In paper ballot and punch card towns, both the check-in and the check-out list must be marked.

In some towns, the election officers at the polls mark the lists for all valid absentee ballots. In this case, the name should be marked immediately after it has been announced at the check-in table. In paper ballot and punch card towns, the name must also be marked on the voting list after it has been announced at the check-out table.

In some towns, the lists are marked at the time the inner ballot envelope is examined in the town clerk's office for all ballots received before election day as provided in 54:94. In this case, the lists will need to be marked by election officers at the polls only for those ballots received by the town clerk on election day.

However, the regulations provide that the election officers shall make certain that the name is on the voting list. This can be done at the election supply table rather than at the check-in and check-out table by using an extra copy of the voting list, supplement and list of non-registered specially qualified voters. The warden should make a mark on these lists the same as that used at the table(s). In this way, a record will be established that the names were verified at the polls, but the check-in and check-out process for in person voters will not be interrupted and delayed while the election officers find and mark the names of absentee voters. Note that this procedure cannot be substituted for announcing the names and addresses at the check-in and check-out table.

Note: If the absentee voter's name is not on the voting list, the ballot should not be processed. Set the ballot aside and the town clerk should be notified immediately. In this case, it is likely the person received the ballot under the omitted voter certificate procedure and through error his name was not added to the voting list.

Note: If the name is found already marked on the voting list as having voted in person, the ballot should also be set aside and not processed further. In this case, the warden should enter on the return envelope REJECTED AS VOTED IN PERSON. This ballot in its envelope should be returned to the town clerk on election night in the fibreboard box. The warden should also correct the disposition sheet by crossing out the mark in the column entitled BALLOT CAST and entering a mark in the column REJECTED AS VOTED IN PERSON.

E. OPEN BALLOT ENVELOPE [Regs. 51.03(27)(d), 52.03(22)(e), 54.03(27)(e)]

The return envelope will have already been opened when the ballot was examined by the town clerk in his office. The inner

ballot envelope must be opened at the polls. Care should be taken so that neither the affidavit nor the ballot is defaced, torn or marked. A letter opener or penknife may be used, if provided.

To save time at the ballot box, particularly if the voting list must be marked, the inner ballot envelope may be opened at the election supply table before the name and address is announced. However, the ballot should not be removed at this time and the inner and return envelope should be kept together.

F. ONE BALLOT PER ENVELOPE [Regs. 51.03(27)(f), 52.03(22)(f), 54.03(22)(f)]

The ballot envelope must contain only one ballot. If more than one ballot is found, neither can be counted. The ballots should be replaced in the ballot envelope and in the return envelope. Mark on the outside of the return envelope REJECTED AS DEFECTIVE. Then place it with other rejected absentee ballots, if any, or set it aside and be certain that the ballots are not deposited in the ballot box.

In this case, the voting list should not be marked since no ballot was cast. If it has already been marked in the office at the time the ballot was processed there, draw a few slanted lines through the mark and note "do not count" so that the election officers counting the voting list after the polls close will not count that mark. Otherwise, the number of names marked on the voting list will not balance with the number of ballots cast. In addition, the disposition sheet will need to be corrected by crossing out the mark in the column entitled BALLOT CAST and entering a mark in the column entitled REJECTED AS DEFECTIVE. It is suggested that a note be added near the correction such as "not counted - 2 ballots in envelope."

G. DEPOSIT BALLOT IN BALLOT BOX

1. Paper Ballot Towns [Regs. 51.03(27)(h)]

In paper ballot towns, the warden should remove the ballot from the envelope without opening or examining it. However, he will need to flatten the ballot and then place it in the top opening of the ballot box with the title showing. The election officer in charge of the ballot box at the check-out table should then crank the ballot into the box.

2. Voting Machine Towns [52.03(22)(h)]

In voting machine towns, the procedure is the same as in G. 1. above except that either the warden or the election clerk,

if assisting the warden, should crank the ballot into the box since there is no check-out table.

The ballot box can be moved near the check-in table since the voter's name and address is announced and the voting list marked only at that location.

3. Punch Card Towns [54.03(27)(h)]

In punch card towns, except where the Datavote system is used, the warden should remove the punch card and the gray write-in envelope from the ballot envelope. If the punch card is attached to the plastic foam backer, it should be removed. Then place the punch card in the gray write-in envelope. The warden should be certain that the blank side of the punch card shows through the window of the gray envelope. He should place the gray envelope containing the ballot, window side up, in the top opening of the ballot box. The election officer in charge of the ballot box at the check-out table should crank the ballot into the box.

In towns using the Datavote system, the procedure is the same as for other punch card ballots except that the warden should remove the stub from the ballot card before placing it in the top of the ballot box. If the ballot consists of more than one card, he should count the stubs to ensure that the correct number of cards is contained in the gray envelope. Place the stubs in the envelope or box provided at the check-out table, if any.

If the voter has already removed the stubs, the warden should examine the gray envelope, without ascertaining how the voter has voted, to ensure that it contains the correct number of cards.

H. KEEP INNER BALLOT ENVELOPE, RETURN ENVELOPE AND APPLICATION TOGETHER [54:95]

The inner ballot envelope may be replaced in the return envelope, but this is not required. However, both envelopes should be placed with the application to which they relate. They may need to be examined during a recount and such examination is easier if the envelopes are kept with the application. The envelopes and applications may be placed in a large manila envelope or kept together with an elastic.

XIV. CLOSING THE POLLS

A. WARNING ANNOUNCEMENT

In some towns, a minute or two before the polls are to close, the warden or other election officer goes to the voting room entrance door or into the lobby and announces that the polls are about to close. He usually states that if anyone present in the lobby has not voted but wishes to, he should enter the polls or get in line without delay. In some towns, this announcement is also made outside the building entrance door. Such an announcement gives fair warning to all present that they have little time in which to vote.

At that time, the warden may also ask the police officer to listen for the closing announcement so he will be prepared to stand at the end of the line of voters, if any, or inform any late comers that the polls are closed.

B. ANNOUNCE POLLS ARE CLOSED [Regs. 51.03(30), 52.03(25), 54.03(30)]

At the exact time stated in the warrant, the town clerk, if at the polling place, the warden or other election officer should announce that the polls are closed. The following wording may be used:

It now being 8:00 P.M., in accordance with the warrant for this election, I declare that the polls are closed.

Or a less formal announcement may be made. However, the announcement should be clear and stated loudly enough so that everyone in the polling place can hear it. If there are lines of voters, the announcement should include the information that all voters in line will be permitted to vote.

If several precincts are voting in the same building near each other, the town clerk sometimes makes the announcement in the hallway connecting all precinct voting rooms rather than having the warden of each precinct make a separate announcement.

C. NO VOTERS ADMITTED AFTER CLOSE [54:70]

After the time fixed for closing the polls, no voters shall be admitted within the guard rails, except the following:

- election officers
- supervisors appointed under 54:23

- the town clerk or his representative
- the custodian of voting machines (in voting machine towns)
- voters who were in the polling place or who were in line at the door of the polling place at the time of closing

D. VOTERS WAITING AT CLOSING TIME [54:70; Regs. 51.03(30), 52.03(25), 54.03(30)]

All voters waiting in the polling place or in line at the door at the time the polls were closed must be permitted to vote if they are qualified. However, the warden should ensure that no other voters are permitted to get in line or to vote after that time if they were not in line.

A certificate stating that he was in the polls or in line at the close, or a colored card or piece of paper on which he writes his name, should be given to each waiting voter, unless a police officer is stationed at the end of the line and has a clear view of the check-in table. (see PREPARING ELECTION MATERIALS, VI. MISCELLANEOUS, A. 10. in Volume 3 of this series)

Election officers must remain on duty at the check-in table until the last voter has been checked in. In voting machine towns, election officers must remain on duty at the machines until the last voter has registered his vote and, in paper ballot and punch card towns, at the check-out table until the last voter has deposited his ballot.

XV. AFTER THE POLLS CLOSE

A. POLLING PLACE MUST REMAIN OPEN TO PUBLIC [54:105,105A; Regs. 51.04(2), 52.04(2), 54.04(1)]

The polling place must remain open to the public after the polls close. The voting lists and all ballots removed from the ballot box shall be kept in open view of the voters present until enclosed in boxes and sealed up for return to the town clerk. All proceedings in the canvass and counting of votes shall be public and in open view of the voters. [54:105,105A] Voting machines must also be kept in full view of the public. [Regs. 52.04(2)]

The public must observe from outside the guard rail. Only election officers may handle ballots or voting machines. [Regs. 51.04(2), 52.04(2), 54.04(1)]

B. WARDEN TO KEEP ORDER [54:71]

While votes are being counted after the polls close, the warden has the authority to maintain order, to enforce obedience to his lawful commands in and about the polling place and to keep the access open and unobstructed. Even though the public cannot be excluded from the polling place, the warden should prevent any interference, either from excessive noise or from crowding, with the work which must be done by the election officers.

If necessary, the warden may obtain the assistance of the police officer in keeping order and enforcing his commands. While not specifically required by the General Laws, the police officer in many towns stays on duty at the polls until the election material is ready for return to the town clerk. (see XX. RETURN ELECTION MATERIALS TO TOWN CLERK on page 236)

C. PROCEDURES - ALL TOWNS

Immediately after the polls close, a number of steps must be taken by the warden, clerk and election officers regardless of the voting system used in the town. The warden is responsible for seeing that the steps are taken and for assigning the specific duties to the election officers. [54:71] Some steps may be taken concurrently. Some may be taken in a different order from that outlined below depending upon the voting system and upon the circumstances in each town.

1. Count Names Marked on the Voting List

The election officers in charge of the voting lists shall publicly and in the presence of other election officers, audibly and distinctly count and announce the number of names checked on the voting list used at the election. [54:105, 105A; Regs. 51.04(4), 52.04(3), 54.04(3)] In primaries, the names marked must be counted separately for each party. In many towns, an adding machine is available for the election officers counting the lists.

The voting lists should not be removed from the voting room for counting. The other election officers not counting the lists, may be engaged in other necessary work in the voting room. They do not have to stand near the voting lists or actually watch the process.

In paper ballot and punch card towns, both the check-in and the check-out voting lists must be counted. In voting machine towns, only the check-in list needs to be counted since there is no check-out process.

a. count in teams of two

In most towns, the two election officers, who were on duty at the check-in and at the check-out table at the time the polls closed, count the voting list. However, if one of those election officers cannot stay on duty long enough to count the lists, an election officer of the same party can be assigned. If the voting list consists of a number of pages, it may be divided in half. Each election officer counts half the list and then checks the count of the other election officer.

b. what must be counted

The names marked on the main voting list, on all supplementary lists, and on the list of non-registered specially qualified voters must be counted. In addition, unless the names of omitted voters have been written in by hand and marked directly on the list by the election officers, the warden's, listing error and supplementary registration certificates should also be counted.

Certificates of party enrollment error and certificates for voters marked AV or SAV but who voted in person should not be counted since those names are printed, marked and will be counted on the main voting list or supplementary lists.

Note: 54:105 requires that the election officers separately count and announce the number of names marked on the list of voters qualified to vote only for electors of president and vice-president. (see 51:1A) However, such a list for "partial ballot" voters is no longer needed or used at the polls in elections. Partial ballots cast under 51:1F are all counted at the office and a list of such voters is not sent to the polls.

c. form for counting

In some towns, a form is provided to assist the election officers in counting the names marked on the voting list. (see PREPARING ELECTION MATERIALS, VI. MISCELLANEOUS, B. 3. in Volume 3 of this series) If used, the election officer should enter the total number of marked names counted on each page in the space provided on the form. A separate space for entering the number of certificates is provided. In a primary, separate columns should be provided for each party on the form.

If two election officers count the list, one-half of the form would be completed by each, checked by the other and then the subtotals added to obtain the total number of names marked.

If a form is not used, the number of names counted can be entered at the bottom of each page or column on the list, checked and then added.

d. count absentee voters separately

In some towns, a separate count of the names marked as having voted by absentee ballot is made although this is not required. A discrepancy in the balance (see e. below) can sometimes be resolved quickly by recounting the number of absentee voters and checking that number against the disposition list, or, in voting machine towns, against the number of absentee ballots cast.

If counted separately, the names of absentee voters should be marked on the voting list in a different color from that used for marking the names of in person voters. Green is an appropriate color since it is easily distinguished from the red usually used for in person voters. On the count form, a separate column should be provided for absentee voters.

In primaries, the columns for in person voters and for absentee voters should be divided in half to provide space to record the number of marked names separately for each party.

e. count of names must balance

(1) paper ballot and punch card towns

In paper ballot and punch card towns, the total number of names marked on the check-in list should equal the total number of names marked on the check-out list. If it does not, the election officers should recount the lists and if necessary, compare the marks counted on each list page by page.

Note: In primaries, a page by page comparison may also resolve a problem if an election officer has neglected to record the party initial for an unenrolled voter. (see IX. G. 1. on page 93)

The number of names marked on each list must also equal the total number of ballots cast and, unless there was a problem during the election, the number registered on the ballot box. If it does not, the lists or the number of ballots removed from the ballot box may be recounted.

(2) voting machine towns [Regs. 52.04(7)]

In voting machine towns, the total number of names marked on the voting list should equal the total number of ballots cast on the voting machine plus the total number of absentee and challenged ballots cast.

The number of voting machine ballots cast may be obtained quickly by adding the numbers found on each outside public counter after the polls close, provided the extra votes recorded due to machine failure, etc. are subtracted. (see IX. 1. VOTING MACHINE PROBLEMS on page 98) Obtaining the total from the outside public counters will permit you to determine, well before the vote count is completed, whether or not the voting list count balances.

Note: In some towns, a card is taped to the end of each voting machine on which each vote to be subtracted from the public counter is recorded during the election. Before recording the public counter number after the polls close, the election officer subtracts the number of votes appearing on the card.

The number of voter authority certificates given out may be used to obtain the number of machine ballots cast. However, unless the certificates are given out in consecutive order so that the total number used is one less than the lowest number printed on unused certificates, all the used certificates will need to be counted. Counting voter authority certificates is not required by the General Laws or the Regulations and, in many towns, it is not done except as a last resort when a balance cannot otherwise be obtained.

The number of absentee and challenged ballots cast will be the same as the ballot box register unless there was a problem with the register during the election. However, if absentee voters are counted on the voting list separately from in person voters, the number of ballots deposited in the ballot box will not balance with the number of absentee voters marked on the list unless the challenged ballots and the paper ballots voted under a listing error certificate are first subtracted from the ballot box register.

If the voting list count does not balance, first check all voting machine failure certificates and the election record to be certain that the correct number of votes has been subtracted from the outside public counter numbers. Then, check the number of absentee

ballots cast against the number of names marked as having voted by absentee ballot.

If a balance still cannot be obtained, the voting list should be recounted.

Note: In some towns, election officers are required to count the names marked on the voting list only twice if a balance cannot be obtained on election night. Officers who repeatedly count the lists when they are tired, tend to make the same mistakes repeatedly. The voting list is counted the next day at the office and usually the mistake is detected at that time.

f. election officers to sign voting list

In many towns, the voting list is signed by the election officers who count it although this is not required by the General Laws or Regulations. If a form is used, space is provided on the form for the signatures.

The election officers should then turn the list over to the warden or election clerk. They may leave the polls at this time unless they have been assigned to additional duties or to help count the votes.

g. announce number of names marked

After the total number of names marked has been obtained, an election officer should publicly announce the number whether or not it can be properly balanced. In most towns, the number is simply stated aloud by the election clerk before he records it and a formal announcement is not made. Or, the number of names marked on the list is announced at the time the election results are announced.

h. election clerk to record number

The election clerk should record the number of names marked on the voting list in the election record and in punch card towns, on the precinct clerk's report, if used. (see PREPARING ELECTION MATERIALS, VI. MISCELLANEOUS, A. 7. in Volume 3 of this series) This number must also be entered on the total vote sheet. (see PREPARING ELECTION MATERIALS, II. TALLY SHEETS, A. 2. - election clerk's certificate in Volume 3 of this series)

If the voting list count does not balance with the number of ballots cast, the election clerk should note the discrepancies in the record. If possible, also enter an explanation for such discrepancies.

2. Open Ballot Box - Remove Ballots [54:105,105A,106; 56:50, 55; Regs. 51.04(3),(6), 52.04(4),(12), 54.04(2),(6)]

The warden should obtain the keys and unlock the side door of the ballot box. He should remove all ballots in the presence of other election officers. [54:105,105A; Regs. 51.04(6), 52.04(12), 54.04(6)] In many towns, the warden and clerk work together in removing ballots while the election officers are counting the names marked on the voting list. In other towns, all election officers stand near the ballot box while the ballots are being removed.

Note: In voting machine towns, ballots to be removed from the ballot box are the absentee, challenged and those voted in the office under a listing error certificate.

The penalty on whoever, if not authorized, removes a ballot from the ballot box is imprisonment for not more than 2 1/2 years. [56:50,55]

After all ballots have been removed from the box, the crank should be removed and placed in the box either in the compartment containing the register or in the compartment from which the ballots were removed. Then all doors on the ballot box should be locked. The key should be kept by the warden until sealed and returned to the town clerk.

a. count number of ballots [53:39; 54:105,105A]

The number of ballots shall be counted, audibly and in public view, one by one. [54:105,105A] In a primary, first sort the ballots into two piles, one for each party, and then count the number of ballots of each party separately. [53:39] The ballots may be checked at this time to ensure that each has been cancelled, unless it became impossible to use the state ballot box or the cancelling mechanism failed to operate properly. [54:106] (see IX. H. BALLOT BOX PROBLEMS on page 95)

The ballots should not be unfolded or, in punch card towns, removed from the gray write-in envelopes at this time, but they can be separated into convenient packages or blocks. (see XVI. B. 4. on page 163)

Note: 54:105 requires that the ballots cast by persons qualified to vote for president and vice-president only be counted separately. (see 51:1A) However, partial ballots for such voters are no longer cast at the polling place.

b. announce number of ballots [54:105,105A]

The total number of ballots should be announced publicly. In a primary, announce the number of ballots for each party separately. However, prior to making the announcement, check the ballot box register to see that the number of ballots counted equals the number recorded on the register. If it does not and there have been no problems with the ballot box or register during the election, the ballots should be recounted. Check to be sure that two ballots have not been counted as one. Sometimes a paper ballot gets folded into another when the ballots are being removed from the box.

In some towns, the number registered on the ballot box followed by the number of ballots cast is stated aloud at this time. In other towns, these numbers are stated at the time the election results are announced.

c. election clerk to record [54:105,105A; Regs. 51.04(3), 52.04(4), 54.04(2)]

The election clerk should record in the election record the number on the ballot box register and the number of ballots removed from the ballot box. In a primary, record the number of ballots for each primary separately. In punch card towns, the number on the ballot box register and the number of ballots should also be recorded on the precinct clerk's report form, if used. (see PREPARING ELECTION MATERIALS, IX. MISCELLANEOUS, A. 7. in Volume 3 of this series)

If there is a discrepancy between the number of ballots removed from the box and the ballot box register, the election clerk should note it in the record. The explanation for the discrepancy should be recorded, if possible. Usually a discrepancy is caused by having the ballot box jam.

Note: Additional procedures to be used vary depending upon the type of voting system used. (see D. on page 148 and E. on page 150)

3. Count Number of Escrow Ballots [51:59A; Regs. 51.04(5A); 52.04(11A), 54.04(4A)]

Two election officers of different parties shall count the number of escrow ballots contained in the escrow ballot envelope. Both election officers should agree on the number and then enter it on the outside of the envelope. (see PREPARING ELECTION MATERIALS, III. ENVELOPES, A. 7 in Volume 3 of this series) They shall not count the votes on any escrow ballots.

The envelope containing escrow ballots should then be turned over to the warden or election clerk. The election clerk should record the number of escrow ballots in the election record.

D. PROCEDURES - PAPER BALLOT AND PUNCH CARD TOWNS

The following additional procedures should be used in paper ballot and punch card towns.

1. Unused Ballots [54:105,105A; Regs. 51.04(26), 54.04(5)]

a. count number of ballots

The election officers shall audibly count all unused ballots. In a primary, the unused ballots must be counted separately for each party.

Note: In punch card towns, the number of unused gray write-in envelopes do not need to be counted.

In paper ballot towns, 54:105 requires the number of unused ballots to be counted after the used ballots have been canvassed and counted and the results have been reported to the warden. Regulation 51.04(26) appears after the section related to announcing the final returns.

In punch card towns, 54:105A does not specify when the number of unused ballots must be counted. Regulation 54.04(5) appears after the section related to sealing the checked voting list in an envelope after the marked names have been counted.

In any event, the number of unused ballots must be counted before they are packed and sealed for return to the town clerk.

b. announce number of ballots [54:105,105A]

The warden should publicly announce the number of unused ballots. The number must be announced separately for each party in a primary.

c. number recorded

The election clerk must record the number of unused ballots in the election record. In punch card towns, the number should also be recorded on the precinct clerk's report form, if used. (see PREPARING ELECTION MATERIALS, IX. MISCELLANEOUS, A. 7. in Volume 3 of this series) Record the number for each party separately in a primary.

2. Spoiled Ballots [54:105,105A; Regs. 51.04(25), 54.04(5)]

a. count number of spoiled ballots

Remove from the spoiled ballot envelope the ballots spoiled by voters and returned to the election officers at the check-in table and count the number of ballots. The ballots should not be unfolded.

54:105 and 54:105A require that as soon as the polls close, the election clerk record the number of spoiled ballots implying that the spoiled ballots must be counted at that time. Regulation 51.04(25) appears after the section related to announcing the final results and Regulation 54.04(5) appears after the section related to counting and sealing the voting list. However, the location of these regulations does not imply a time when the number of spoiled ballots should be counted.

In many towns, the number of spoiled ballots are counted while the names marked on the voting list are being counted so that the number can be recorded as soon as possible after the polls close.

Note: Regulation 51.04(25) requires that the number of ballots marked spoiled during the counting process must also be counted and recorded in the election record. These are ballots on which an identifying mark was found and should be marked "defective" under 54:106. Under Regs. 51.04(17), they should be counted as a blank for every office and question, but are not required to be placed in a separate envelope. They may be sealed with the block of ballots in which they were found during the vote count.

b. spoiled ballot envelope [Regs. 51.03(12), 54.03(12)]

The spoiled ballots should be enclosed in the spoiled ballot envelope and the number of ballots entered on the outside. The spoiled ballot envelope should then be turned over to the election clerk. (see PREPARING ELECTION MATERIALS, III. ENVELOPES, B. 2. in Volume 3 of this series)

c. number to be recorded

The election clerk must record the number of spoiled ballots in the election record. In punch card towns, the number should also be recorded on the precinct clerk's report form, if used.

Note: There is no requirement that the number of spoiled ballots be publicly announced.

3. Balance Total Number of Ballots [54:105,105A; Regs. 51.02(6), 54.02(8)]

The sum of the number of ballots removed from the ballot box, the number of unused ballots and the number of spoiled ballots should equal the total number of ballots received before the polls opened and recorded in the election record and, in punch card towns, on the precinct clerk's report form, if used. If it does not, the number of spoiled and unused ballots should be recounted.

Note: The number of ballots found spoiled and marked "defective" during the counting process (54:106), if any, would have already been counted when removed from the ballot box. The number of these ballots should not be added in separately when calculating the total number of ballots unused, spoiled and cast.

E. PROCEDURES - VOTING MACHINE TOWNS

The following additional procedures should be used in voting machine towns:

1. Lock Voting Machines Against Further Voting [54:35B; Regs. 52.03(26)]

When the closing announcement is completed, the keys for each voting machine may be placed on the shelf just under the public counter unless voters are still in line waiting to vote. In some towns, keys are not placed on the machines until all voters have registered their votes and moved outside the guard rails.

As soon as the last voter has registered his vote, each machine should be locked against further voting by using the number 2 key to turn down the number 2 lock. [Regs. 52.03(26)]

If a machine was not used by at least one voter at the election, the number 2 lock cannot be turned down. In this case, the voting machine custodian will need to be called to open the lower rear door and release the after election latch. Then the number 2 lock can be turned down.

Note: In some towns when a light turnout is expected, the machines farthest from the check-in table are not unsealed nor is the number 2 lock unlocked before the polls open. (see Note: under 11. E. 11. on page 25) In this case, the election clerk should record that the machine was not unsealed and was not used during the election.

2. Read Public Counter [52.04(5)]

At the time the number 2 lock is locked, an election officer should read and record the outside public counter on each machine. This number, less any subtraction for machine failure, etc., will be needed in order to determine, before all the votes have been counted, whether or not the number of ballots cast balances with the number of names marked on the voting list. (see C. 1. e. (2) on page 144)

Regs. 52.04(5) requires that the number on the public counter, less any subtractions for machine failure, shall also be recorded on the precinct total tally sheet. However, the number to be recorded on the total sheet is usually obtained later from the inside public counter after the machine pack has been given to the tellers for printomatic machines, or for non-printomatic machines, when the number is read by election officers from the counters on the back of the machine. (see XVI. C. 2. d. on page 178 and 3. b. on page 184)

3. Voter Authority Certificates and Unused Ballots

The election officers should collect from each machine, the used voter authority certificates and turn them over to the election clerk. In some towns, the certificates are kept in the receptacles until after the voting list has been counted in case the certificates need to be counted to obtain a balance. (see C. 1. e. (2) on page 144)

There is no requirement in the General Laws or the Regulations that the used or unused voter authority certificates be counted, the number announced or recorded. There is also no requirement that the unused absentee ballots provided for challenged or escrow ballots or to be used in case all voting machines fail be counted, the number announced or recorded. However, in some towns, such a count is made and the numbers recorded in the election record.

4. Spoiled Ballots

The only spoiled ballots possible in a voting machine town are challenged or escrow ballots or those used if all voting machines fail. These are very unlikely. However, if such ballots are spoiled, the number should be counted and recorded. Follow the procedures outlined in D. 2. on page 149. All spoiled ballots may be placed in the same spoiled ballot envelope.

XVI. COUNTING VOTES

A. GENERAL

1. Count Votes in Polling Place [54:33F,105A; Regs. 51.04(1), 52.04(1)]

The counting of votes shall take place in the polling place [Regs. 51.04(1), 52.04(1)] unless in punch card towns, a central tabulations center has been designated by the town clerk. [54:33F,105A] In that case, the votes on gray write-in envelopes and on over-voted ballots may be counted by hand in the precinct. All other votes must be counted in the tabulation center. (see Regs. 55.10(1)) However, in most punch card towns having a central tabulation center, all votes are counted at the center.

2. Use Blank Forms Provided by State Secretary [53:24, 54:104]

The blank forms and apparatus provided by the state secretary shall be used in ascertaining the results in state and presidential primaries and elections and in town primaries, preliminaries and elections where official ballots are used and also in taking the vote on any ballot question. If it is impossible to use such blank forms and apparatus, the canvass and count of the votes shall be made as the warden shall direct. The election clerk shall record the facts relating to the failure to use the state forms and enclose an attested copy of such record in the container with the ballots cast. (see PREPARING ELECTION MATERIALS, II. TALLY SHEETS in Volume 3 of this series)

3. Use Only Red Pencils or Pens [54:80; Regs. 51.04(8), 52.05(15)]

No election officer engaged in counting ballots, except the election officers actually entering the count of ballots cast on tally sheets, shall hold in either hand during the counting of ballots a pen, pencil or other marking device. The election officers recording or tabulating votes shall use only red pencils or ink.

4. Votes Not to be Counted Before Polls Close [53:51; 54:105, 105A, Regs. 51.03(26), 52.03(26), 54.03(26)]

No votes can be counted until after the polls close. In punch card towns, the ballot cards cannot be separated from their envelopes or otherwise processed for counting until after the polls close.

Note: If there is a line of voters waiting at the time the polls close, votes cannot be counted until after the last voter in line has deposited his ballot in the ballot box, or, in voting machine towns, has registered his vote.

5. Count Cannot be Adjourned [54:105,105A; Regs. 51.04(1), 52.04(1)]

There shall be no adjournment until the canvass and counting of votes have been completed, the results announced [Regs. 51.04(1), 52.04(1)] and the voting list and ballots have been enclosed and sealed. [54:105]

In punch card towns having a central tabulation center, there shall be no adjournment or postponement of the proceedings at the polling place until all such proceedings have been completed and the ballot cards transmitted to the tabulation center. [54:105A]

6. All Valid Votes Must be Counted [Regs. 51.04(16), 52.04(23)]

All ballots shall be counted accurately as marked. A ballot may not be rejected for any technical error if it is possible to determine the voter's choice. All votes should be counted for the person for whom they were intended, so far as the intent can be clearly ascertained from the ballots themselves. [Regs. 51.04(16), 52.04(23)] In addition, courts have consistently ruled that the will of the voter, if it can be determined with reasonable certainty, must be given effect provided the voter has substantially complied with the election statute.

If however, the voter's choice cannot be determined, or if the voter marks more names than there are persons to be elected to the office, the ballot cannot be counted for that office. It should be counted for other offices appearing on the ballot. [54:106] The tellers should use their judgment in deciding how to record the vote. If the reading teller is uncertain of the voter's intent, both tellers should look at the ballot. If they both agree that the intent cannot be determined, the appropriate number of blanks should be recorded for that office. (see Kane v. Reg. of Voters, (1952) 328 Mass. 511 and Morris v. Reg. of Voters, (1972) 362 Mass. 48) However, if the tellers cannot agree on how to record the vote, either as a vote for a candidate or as a blank, they should call the warden to the table and obtain his opinion.

The election officers should do their best to determine the voter's intent and count the vote accordingly. In some cases, the final determination of the voter's intent will have to be made by the registrars at a recount or eventually by a court.

a. candidates and questions on the ballot [53:35, 54:77]

(1) paper ballots

The General Laws require that the voter mark a paper ballot with a cross (X) in the square opposite the candidate's name or opposite his answer to a ballot question.

However, a vote should be counted under the following circumstances if the voter's intent can be determined:

- if the voter uses a different mark, such as a slanted line, a check mark, a double X, a circle, a number etc.,

- if the voter obliterates a mark opposite a candidate or answer to a question, and marks the ballot opposite another candidate's name under that office or opposite the other answer under a question,

- if the voter marks his ballot in a location other than within the box.

(see examples of marked ballots and related court decisions on pages 257 and 258)

(2) punch cards

If punch cards are used, a person must vote by punching holes in the appropriate locations opposite a candidate's name or answer to a ballot question.

[54:33E] If, however, a hole is punched both in a space opposite a candidate's name and in a space not opposite any candidate's name under that office, a vote for the candidate should be counted. (see *McCavitt v. Reg. of Voters*, (1982) 385 Mass. 833)

Examples: On a punch card (except Datavote), the numbers 3, 4, and 5, are assigned to candidates under the office of moderator and numbers 8, 9 and 10 are assigned to candidates under the office of selectman. A voter punches a hole on the ballot card in number 3, in number 6 and in number 9. The candidate having number 3 receives a vote for moderator and the candidate having number 9 receives a vote for selectman. The hole punched in number 6 is ignored.

On a Datavote card, if the voter punches a hole opposite the name of a candidate and in the blank space under the last candidate for that office, the vote

should be counted for the candidate having the hole punched opposite his name. The hole in the blank space is ignored.

b. write-in votes

The voter may cast a write-in vote for a candidate whose name does not appear printed on the ballot either by writing the name and address of the person for whom he wishes to vote, or attaching a sticker containing the name and address. [53:35; 54:77; Regs. 51.03(10), 52.03(15), 54.03(10)] If the name written in also appears printed on the ballot, the usual practice is not to count that write-in vote. However, if the election is taken to court, a court might decide that the write-in vote should be counted since the only specific prohibition against counting write-in votes for candidates whose names are printed on a ballot relates to the office governor/lieutenant governor in 54:78.

- marking an X opposite write-in not required [53:35; 54:77]

In primaries, no cross (X) shall be required where a voter has inserted the name of the candidate for whom he intends to vote. [53:35] The requirement that the voter make a cross (X) in the square at the right of an inserted candidate's name in elections was deleted from 54:77 in 1976. [1976:475, s. 2] That requirement was deleted from 54:33E with respect to electronic voting systems in 1985. [1985:537, s. 2] If he wishes, the voter may enter an X opposite the name he has written in or on a sticker he has affixed. A sticker may also be printed showing an X in a box opposite the candidate's name.

- stickers or pasters

Write-in candidates may have stickers or pasters printed before a primary or election and distributed to voters for their use. Stickers are usually gummed or self-stick labels which the voter attaches to the ballot, the voting machine write-in paper or the gray write-in envelope used with a punch card ballot.

- dimensions [53:35A]

53:35A provides that stickers used at primaries shall be not more than 1/2 inch wide and 4 1/2 inches long. This is the only section of the General Laws which contains sticker size specifications. However, stickers may and in voting machine and punch card towns, they should vary from these dimensions. A sticker 5/16 inches wide and 4 inches long may be used

on state paper ballots since that size fits in the space provided for write-in votes on the ballot. The dimensions of the write-in slots on voting machines vary and the stickers should not be larger than the slot on the particular machine on which they are to be used. For punch card voting, the sticker should fit the space provided on the gray write-in envelope; not wider than 5/8 inch and not more than 2 inches long if only the candidate's name and address are printed. If the office title is also printed, the sticker should be not more than 2 3/4 inches long.

— candidate's name and address [53:35A; 54:41,44]

The candidate's name should be printed in capital letters in black ink not less than 1/8 nor more than 1/4 inch in height. His residence with name of the street and number, if any, should be included in smaller print to the right of the name for paper ballots, or under the name for voting machines and punch cards.

However, stickers which do not conform to these specifications are not illegal. (see Ray v. Reg. of Voters, (1915) 221 Mass. 223) For example, if the candidate's name was printed in lower case letters or was hand printed, the vote should be counted unless there was some other reason which invalidated it.

In paper ballot towns only, stickers may be printed containing the names of a slate of candidates for a given office. 5/16 inch should be allowed for each candidate for state paper ballots.

Note: No political or other designation shall appear on a sticker and no vote by sticker shall be counted if such designation appears. [54:65] However, the term of office appearing on a sticker does not invalidate the vote. (see Ray v. Reg. of Voters, (1915) 221 Mass. 223)

c. guidelines for counting write-in votes

A write-in vote shall be counted whenever the intent of the voter can reasonably be determined whether or not the voter has omitted the address or has made a mistake in the name or address of the candidate. [54:42; Regs. 51.04(19), 52.04(26), 54.04(16)]

The following are guidelines, based upon the General Laws, the Regulations and court decisions, which may be used for counting write-in votes in all towns regardless of

the type of voting system used. However, the tellers should decide each case based upon an examination of the ballot and the generally known conditions attendant upon the election. (see O'Brien v. Brd. of Election Commissioners, (1926) 257 Mass. 332)

In the following, the term "write-in vote" will be used to refer to a vote whether hand written by the voter or on a sticker attached by the voter to the ballot. The term "scattering" will be used for grouping the write-in votes when only one or two such votes have been cast for a given candidate or when several candidates have received only one or two votes and these votes cannot affect the election results.

(1) candidate's name

Except under certain circumstances outlined below, the candidate's name should be entered as he is registered. However, a mistake in the name or an omission in part of the name does not necessarily invalidate the vote unless the mistake or omission makes it impossible to determine the voter's intent with reasonable certainty. In some cases, whether or not to count a write-in vote in which the voter made a mistake in a candidate's name will depend upon the type of election or office.

- voter enters only the surname, no address

a) presidential elections

In presidential elections under the office of president/vice-president, only the surnames of candidates should be entered. (see 54:78 and IV. B. 3. How to Vote - by Write-in on page 36) If the candidate's surname name appears on the list forwarded by the state secretary before the election, it should have been entered on the tally sheets and a write-in vote for such candidates should be recorded by name. If the voter entered the surname of either candidate in a team, a vote should be recorded for the team. If the name written in does not appear on the state secretary's list, the vote should be recorded as a blank.

b) state primaries and elections

In state primaries and elections, if there is a well publicized or well known write-in candidate for any office, the surname alone may be sufficient to indicate the voter's intent with reasonable

certainty, except in the unlikely event that there are two known candidates with the same surname running for the same office. If the tellers recognize the name as a person running a write-in campaign for the office, it should be counted as a valid vote and recorded opposite that candidate's name on the tally sheet. However, if a voter writes in a candidate under the office governor/lieutenant governor but neglects to indicate the office, that vote should be recorded as a blank since the voter's intent is not clear.

c) presidential primary

In presidential primaries under the office of presidential preference, a write-in vote should be counted if the surname alone is entered. In addition, the election officers in counting and tabulating the votes showing the voter's preference for president, shall disregard the omission or inaccuracy of initials, the omission, inaccuracy or misspelling of Christian names and the misspelling of surnames, if the intent of the voter can be ascertained. [53:70E] The following write-ins would be counted as valid votes, unless the name was printed on the ballot:

- Jimmy for Jimmy Carter
- Teddy for Edward M. Kennedy
- Ike for Dwight Eisenhower
- J.F.K for John F. Kennedy
- Ronnie for Ronald Reagan

For candidates under the office of state committeeman and state committeewoman, the guidelines are the same as for state primaries and elections.

For candidates under the office of town committee, the guidelines are the same as for town elections.

Note: A write-in vote appearing on a Democratic ballot for a Republican candidate should be recorded on the Democratic tally sheet. A write-in vote appearing on a Republican ballot should be recorded on the Republican tally sheet. For example, a write-in vote for Ronald Reagan appearing on a Democratic ballot, should be recorded as a Democratic vote for Reagan. The vote cannot be transferred to the Republican tally sheet and recorded there. [53:39]

d) town elections

In town elections, a surname alone may not be sufficient to determine the voter's intent, unless there is only one voter in the town having that surname. If the surname is accompanied by the title of an office the person currently holds or has held, the vote should be counted. For example, if John J. Jones of 15 Center street had been selectman in the town, a write-in for "Jones, former selectman" could be counted as valid. (See O'Brien v. Bd. of Election Commissioners, (1926) 257 Mass. 332)

In any case, however, if the tellers can determine the voter's intent with reasonable certainty from the surname alone because the candidacy was well publicized and there is only one known candidate with that surname, for example, the vote should be counted the same as in a state election.

- voter enters candidate's name, no address

In state elections, entering the candidate's name without an address is usually sufficient to determine the voter's intent particularly if the candidacy has been well publicized. In general, if the tellers recognize the name as that of a write-in candidate for the office, the vote should be counted.

In town elections, entering a candidate's name without the address is usually sufficient to determine intent, if there is only one voter with that name. If, however, there is more than one voter with the name, the intent may not be sufficiently clear.

Example: John J. Whyte of 15 Center Street is running as a write-in candidate. On the voting list, the following names and addresses appear:

- John M. Whyte, 15 Center Street
- John J. Whyte, 15 Center Street
- John L. White, 28 West Street

A write-in vote for John J. Whyte with no address, can be counted, particularly if neither John M. Whyte nor John L. White were politically active, since there is only one John J. Whyte on the voting list. (see Maiewski v. Bd. of Registrars, (1964) 347 Mass. 681) A vote for J. J. Whyte or for J. J. White could be counted for John J. Whyte of 15 center Street. However, J. Whyte or White, Jim Whyte, John Whyte or White, or John M. Whyte could not be counted. (see

O'Brien v. Brd. of Election Commissioners, (1926) 257 Mass. 332)

- mistake in candidate's name, address entered

A mistake in spelling a candidate's name or an omission of an initial, or the use of an initial instead of the given name, may not invalidate the vote if the address is entered.

Example: Geoffrey B. McGuire, 24 East Street was running as a write-in candidate for selectman. The following versions of his name would be acceptable unless some other aspect of the write-in vote, such as two voters with the same given and surname or the same initials at the same address, made it impossible to determine the voter's intent: (24 East Street, or enough of the address so it could be recognized, was entered in each case)

- Jeffrey B. McGuire
- Jeff MacGuire
- Jeffry McGuire
- G. B. McGuire
- Geoffrey MacGuire
- Geoff B. Maguire
- Geoffrey McGuire

(2) candidate's address

54:42 requires that the address of a write-in candidate must be entered by the voter on the ballot. However, it also specifically states that a mistake in stating the address shall not invalidate a vote if the address stated is sufficient to indicate the person for whom the vote was intended. The court has recognized that entering the address is a direction to the voter rather than mandatory requirement. (see O'Brien v. Brd. of Election Commissioners, (1926) 257 Mass. 332 and Maiewski v. Brd. of Registrars of Voters, (1964) 347 Mass. 681)

A mistake such as the wrong house number, omitted house number or misspelling of the street name may not invalidate the write-in vote.

Example: John J. Jones, 15 Center Street is a write-in candidate. The following versions of the write-in entered may be counted, unless some aspect other than the address made it impossible to determine the voter's intent. (see - mistake in candidate's name above)

- John J. Jones, 10 Center
- John Jones, 15 Central St. (unless there is also a Central Street in the town having a John Jones)
- John J. Jones, 15 Centre St.
- John Jones, 15 Centre Road
- Jones, 15 Center St. (unless there is another Jones at that address)

However, John J. Jones, 15 East Street should not be counted.

7. Invalidating Marks [54:80,106; 56:25,53; Regs. 51.04(17), 52.04(24), 54.04(9)]

An election officer shall not count a ballot containing any mark clearly designed to let election officers know that a certain person voted in a certain way. If a voter writes his name on the ballot or marks his ballot with the letters of his name, these are marks which can identify the voter and invalidate the ballot. Such a ballot should be marked "defective" on the outside [54:106] and shall be counted as a blank vote for every office and question on the ballot. [Regs.]

Note: If the voter has been challenged, he must write his name on the outside of the ballot and his ballot should be counted. (see IX. D. CHALLENGED BALLOTS on page 80)

The penalty on a voter who places a distinguishing mark on his ballot is a fine of not more than \$100.00 or imprisonment for not more than 6 months. [56:25]

The penalty on whoever places a distinguishing mark on a ballot not cast by himself, except as authorized by law (challenged or escrow ballot, for example), is imprisonment for not more than 2 1/2 years. [56:53]

8. Ballot Not Cancelled [54:106]

54:106 provides that no ballot shall be counted unless it has been deposited in and cancelled by the ballot box or has been otherwise been deposited if the state ballot box could not be used. (see 54:66)

However, if, upon removing ballots from the box, you find that some have not been cancelled, they should be counted provided the ballot box was properly prepared for the election and examined before the polls opened. If the number on the ballot box register agrees with the number of ballots deposited, you can assume that the cancelling mechanism failed to operate properly at some time during the election. (see Talbot

v. Reg. of Voters, (1932) 281 Mass. 284) The event should be recorded in the election record.

Note: At a town election when ballots contain only two columns, two ballots may have stuck together when mechanically folded at the printer's. If this was not detected either by the election officers at the check-in table or by the voter, you may find a blank ballot with a cancellation and a voted ballot without a cancellation. In this case, the ballot box register will be one less than the number of ballots deposited. The blank ballot should not be counted and the voted ballot without the cancellation should be counted. The event should be recorded in the election record.

B. PROCEDURES – PAPER BALLOTS

In the following, election officers engaged in counting votes are referred to as tellers although, in your town, they may not have been appointed under that title.

The procedures outlined in 1. through 15. below should be used in paper ballot towns. The procedures outlined in 2. through 14. should also be used in voting machine towns for counting absentee and challenged ballots.

1. Precinct Clerk's Table

Shortly before the polls close, the election clerk should arrange on his table the supply of block tally sheets, the total vote sheet and an adding machine. The clerk will also need a red pencil or pen for recording votes on the total vote sheet. [54:80]

2. Tellers' Tables

Shortly before the polls close or as soon as possible after the polls close, the tellers' tables and two chairs for each table should be placed where there is good light for counting. A red pencil or pen should be placed on the table. In some towns, a ruler is provided.

If there are about 30 blocks of ballots, usually 5 or 6 tables will be sufficient for a town election and about 9 or 10 tables will be sufficient for a November election in which there are a number of ballot questions. This number of teams will probably permit the count to be completed and announced by about 11:30 – 12:00 P.M.

3. Assign Tellers

The warden should assign two tellers to each table, one Democrat and one Republican, since all ballots must be counted by such teller teams. [54:105] One teller shall read the vote from the ballot. Using a red pencil or pen, the other teller shall record it on the tally sheet. [54:80; Regs. 51.04(8), 52.04(15)] (see 7. and 8. on pages 164 and 165)

4. Divide Ballots into Blocks [53:39; 54:105; Regs. 51.04(7), 52.04(13)]

The ballots may be divided into convenient packages or blocks. [54:105] In a primary, the ballots must first be separated by party and then arranged in blocks. [53:39] Ballots cannot be opened at this time. In many towns, the warden and clerk do this work but it may be done by any election officers assigned by the warden and is usually done at the time the number of ballots is being counted. (see XV. C. 2. a. on page 146)

The town clerk should have decided the number of ballots to be included in each block before the election and should have informed the warden before the polls close. For most elections, a block usually contains 50 ballots although it may be a different number. (see PREPARING ELECTION MATERIALS, II. TALLY SHEETS, A. 1. in Volume 3 of this series for information on number of ballots in each block)

If challenged ballots have been cast, it is suggested that they be kept together, either in a separate block or as part of the last block of ballots. If there is a recount following the election, a hearing must be held on challenged ballots. The recount and hearing procedures will be simplified if all challenged ballots are together instead of being spread out among several blocks. (see AFTER ELECTION DAY, XI. RECOUNTS on page 339) Note, however, that challenged ballots should be counted on election night in the same way as any other paper ballots.

5. Number Block Tally Sheet and Block Envelope [Regs. 51.04(9), 52.04(14), (16)]

The election clerk should enter a number on a block tally sheet at the top left in the space provided. The same number should be entered on a block envelope. All block tally sheets and the related block envelopes should be numbered consecutively, starting with 1.

In many towns, the numbering is completed for all blocks before any material is distributed to tellers. However, the tally sheet and block envelope may be numbered just before the totals are entered on the total vote sheet. The totals can

then be entered in each consecutive row making it less likely that they are entered in the wrong row.

If more than one tally sheet is needed to include all offices and questions, be certain that the same number is entered on each sheet related to a given block of ballots.

Note: If two total vote sheets are being used because of the large number of blocks, the block tally sheets and envelopes may be numbered 1A, 2A, 3A,... 1B, 2B, 3B..., the letter referring to the total vote sheet on which the block should be entered. (see B. 15. on page 173)

For primaries, the party name or initial should be entered as well as the block number on each tally sheet and envelope.

In addition the precinct number, type of election and the date should be entered on the tally sheets and block envelopes if this has not already been done.

Note: In many towns, the precinct number, type and date of the election is entered on the tally sheets and envelopes in the office prior to election day. (see PREPARING ELECTION MATERIALS, II. TALLY SHEETS and III. ENVELOPES in Volume 3 of this series)

6. Distribute Ballots, Tally Sheets and Envelopes to Tellers [Regs. 51.04(9), 52.04(16)]

Each team of tellers should be given a block of ballots, and the related block tally sheet and block envelope. Inform each team how many ballots are included in the block it receives. Distribute the material until each teller team has one set. If more than one block tally sheet is needed to include all offices and questions, be certain that each team receives all the sheets in the set.

7. One Teller to Read Ballots [Regs. 51.04(10), 52.04(17)]

One teller should completely unfold the first ballot in the block being certain that all columns of candidates and questions can be seen. He should begin with the office at the top of the first column on the ballot, reading aloud the names of the candidates selected by the voter. The teller does not need to read the candidate's full name and considerable time will be saved if he reads only the surname. However, if two candidates for an office have the same surname, the given name must also be read.

The teller should continue by reading aloud the names of the candidates selected by the voter under each office in the order in which they appear on the ballot. He does not need to

read the title of each office unless the recording teller is inexperienced since the office titles are arranged on the tally sheet in the order in which they appear on the ballot.

After the name of the candidate selected under the last office has been read, the answer selected by the voter under each question, if any, should be read in order as the questions appear on the ballot.

After all the selected candidates' names and answers to questions have been read from the first ballot, the teller should place the unfolded ballot on the table, title side up so that the ballots will be in the order in which they were read when the pile is turned over. He should then take the second ballot from the block, unfold it and proceed to read as outlined above. After it has been read, it should be placed unfolded on top of the first ballot, title side up.

Tellers should not make any marks on the ballots and the reading teller should not have any pencil, pen or other marking device in his hand. [54:80]

Note: Counting boards should not be used for the purpose of counting all the votes in a block for a given office before proceeding to count the votes for the next office since the Regulations require that a ballot be counted in its entirety before proceeding to the next ballot. (see also XVII. ANNOUNCE ELECTION RESULTS, A. on page 218)

8. Other Teller to Record Votes [Regs. 51.04(11),(12);
52.04(18),(19)]

The recording teller should first enter on the tally sheet the total number of ballots in the block. In some towns, space for the total number of ballots is provided on the sheet under each office. (see sample on page 259)

Then, as the selected candidates and answers to questions are read, the teller must record the votes by entering a mark in the appropriate box on the related block tally sheet using only the red pencil or pen provided. The type of mark is not specified either in the General Laws or in the Regulations and varies among towns depending upon custom. The mark most commonly used is a slanted line since it can be made more quickly than other marks and is clear. A cross (X) or a check mark is used in some towns.

a. how to mark a block tally sheet

The method in which the tally sheet is to be marked is not specified in the General Laws. However, the Regulations outline two acceptable methods as follows:

- method one [Regs. 51.04(11), 52.04(18)]
(see sample on page 259)

As the name of a candidate is read from the first ballot, the recording teller should make the mark in the first column in the box opposite that candidate's name. As the name of a candidate is read from the second ballot, the recording teller should make the mark in the first vacant consecutive box opposite that candidate's name. As each subsequent ballot is read, the mark should be made in the first vacant box opposite the appropriate candidate's name working toward the right on the tally sheet.

Using method one, the number at the top of each column refers to votes, not ballots. The advantage of this method, is that the number of votes each candidate has received can be easily seen and entered in the column entitled "Total" without counting each individual mark after the block of ballots has been completed.

- method two [Regs. 51.04(12), 52.04(19)]
(see sample on page 260)

As the name of a candidate is read from the first ballot, the recording teller should make a mark in the first column in the box opposite that candidate's name. When the name of a candidate is read from the second ballot, the recording teller should make a mark in the second column on the box opposite that candidate's name, whether or not a mark has been entered in the first column. Votes should be recorded in the third column for the third ballot read, etc.

Using this method, the number at the top of each column refers to ballots, not votes. The advantage of this method is that the votes recorded can be specifically related to each individual ballot if the record needs to be checked at a later time. However, the individual marks will need to be counted for each candidate to obtain the total number of votes he received.

Note: In some towns, all tellers are required to use the same method for recording votes. In other towns, each teller team is permitted to choose the method it prefers. However, to avoid confusion, both methods should not be used on the same tally sheet.

b. group voting

When group voting is permitted, such as under the office of town committee in presidential primaries, and a voter marks a cross in the circle at the top of the column of candidates, the name of each candidate does not need to be read. The reader may use the words "group vote" or some similar words. In this case, the recording teller should make a mark in the appropriate column in the box opposite the name of every candidate appearing on the tally sheet in that group. [53:35]

If, however, the voter did not mark an X in the group circle, the name of each candidate for whom he voted must be read. Before recording the votes when there is more than one group or there are individual candidates for town committee not in a group, the tellers should count the number of candidates for whom the voter voted, whether all in one group, some in each group or some in groups and some individual candidates, to be certain that the votes do not exceed the permitted number. If the permitted number is exceeded, blanks should be recorded for that office. (see B. 9. b. on page 169)

c. president/vice-president - governor/lieutenant governor

On the tally sheet, the candidates for president and vice-president or for governor and lieutenant governor are listed as a team. The recording teller should make one mark for the team when the surnames are read. If more than one team has been marked on the ballot, a blank for that office must be recorded. (see B. 9. b. on page 169)

d. presidential preference (presidential primaries)

The candidates' names and "no preference" are listed on the tally sheet. A mark opposite "no preference" should be recorded and counted as though it were a candidate. However, if the voter has marked an X opposite "no preference" and written in the name of a candidate, the vote should be counted for the write-in candidate only. [53:70E]

9. Recording Blanks [Regs. 51.04(13), 52.04(20)]

For each ballot, a vote must be recorded for each of the selected candidates, or the appropriate number of blanks must be recorded. Blanks should be recorded as follows using the same method as is used to record votes for candidates. (see B. 8. a. on page 165)

a. voter did not vote for permitted number of candidates

- one person to be elected

If one person is to be elected under an office, but the voter did not make a mark in the box opposite any candidate's name under that office or write in a name, the reader should say "blank." The recorder should make a mark in the appropriate column in the box opposite the word "blanks."

- two or more persons to be elected

If two persons are to be elected under an office, but the voter made a mark in the box opposite only one candidate under that office, the reader should read the candidate's surname and then say, "blank." The recorder should make a mark in the appropriate column in the box opposite the candidate's name and make a mark in the appropriate box opposite the word "blanks" on the tally sheet.

Note: If the recorder is inexperienced, the reader should probably add the office title to be certain the blank does not get recorded under the next office.

If the voter did not make a mark opposite the names of any candidates under the office, the reader should say "two blanks" and the recorder may mark the tally sheet in the next two boxes opposite the word "blanks" on the tally sheet, if method one is used. Or, if either method is used, the number 2 may be entered in the appropriate box opposite "blanks."

If there are more than two persons to be elected, the total number of marks made on the tally sheet for candidates, for blanks, or for a combination of candidates and blanks, must equal the number to be elected.

Example: If 35 members of a political town committee are to be elected, but the voter voted for only 15 candidates under that office, a mark should be made on the tally sheet opposite each candidate's name and 20 marks should be made opposite the word "blanks." To save time and space, the number 20 may be entered in the appropriate column in the box opposite blanks instead of entering 20 individual marks regardless of whether method one or method two is used.

b. voter voted for too many candidates [54:106; Regs. 51.04(18), 52.04(25)]

If under a given office, the voter marks more candidates than there are persons to be elected, it is commonly called an "over-vote" and a vote for none of the candidates should be recorded. However, a number of blanks equal to the number permitted to be elected should be recorded for that office.

Examples: If one person is to be elected, but the voter marks two or more candidate's names on his ballot, one blank should be recorded under that office. If two are to be elected, but the voter marks three or more candidates' names, two blanks should be recorded under that office.

The votes for candidates under the rest of the offices on that ballot should be recorded as usual, however.

Note: Write-in votes can also cause an over-vote if the number of write-in votes entered or the combination of marks for candidates printed on the ballot plus the write-in votes equals more than the number to be elected.

c. invalid (defective) ballot [54:106; Regs. 51.04(17), 52.04(24)]

If, when the ballot is examined by the tellers, any identifying marks are found on it, it should not be counted. [54:106] Instead, the appropriate number of blanks should be entered on the tally sheet under every office and question. (see A. 7. on page 161)

It is very unlikely that any ballots containing identifying marks will be found at any primary or election. It is suggested that if tellers find a ballot containing what they believe are identifying marks, they call the warden to the table to determine how the ballot should be treated. If the warden determines that the marks identify the ballot, enter "defective" on the outside and enter on the tally sheet, the appropriate number of blanks under every office. The ballot should be kept with the rest of the ballots in that block.

Note that the term "defective" in 54:106 refers to those ballots, including absentee ballots, which have been deposited in the ballot box but which were found to be defective during the counting process. It should not be confused with the term "defective" in 54:95 related to absentee ballots marked "rejected as defective" during the

examination of the affidavit on the inner envelope. Such absentee ballots are not deposited in the ballot box.

10. Counting Write-in Votes (see guidelines under A. 6. b. on page 155)

a. location of write-in vote

A write-in vote should be placed in one of the blank spaces required to be provided under each office on a paper ballot. (see 54:42) A write-in vote may be counted for an office, however, if it is placed elsewhere under that office, above or below the lines provided for write-in votes. If a sticker is used, it should be counted even if it covers a candidate's name printed on the ballot. (see Ray v. Registrars of Voters (1915) 221 Mass. 223) However, the tellers must be able to determine the office for which the write-in vote was intended. For example, the write-in could not be counted if it was found along the edge of the ballot, at the top of the ballot above an office title or overlapping two offices.

A write-in must be counted for the office under which it is found, even though the person written in is known to be a candidate for a different office.

Example: John J. Jones is a write-in candidate for selectman. If a write-in vote for John J. Jones is found under the office of assessor, it must be counted as a write-in vote for assessor, not selectman. (see O'Brien v. Brd. of Election Commissioners, (1926) 257 Mass. 332)

b. one teller to read ballots [Regs. 51.04(10), 52.04(17)]

While the teller is reading the votes cast for candidates whose names are on the ballot, he should also read the write-in votes cast under each office. In this case, each time a write-in appears, he should state the name and address, if any, as it is entered on the ballot. He should read each write-in vote whenever he can determine the intent of the voter, whether or not the voter has omitted the address or has made a mistake in the name or address. If he is in doubt about the intent of the voter, the two tellers should confer. (see A. 6. on page 153)

c. other teller to record votes [Regs. 51.04(19); 52.04(26)]

The first time a given write-in candidate's name is read, the recording teller must enter it on the block tally sheet and then make a mark in the appropriate box opposite the candidate's name using method one or two outlined under

B. 8. a. on page 165. The second time a vote for that candidate is read, the recorder makes a mark opposite the name in the appropriate box. In some towns, the recording teller also enters the write-in candidate's address under the name.

If the write-in candidate announced his candidacy before the election, his name and address may have been entered on the tally sheets at the town clerk's office before the election. In this case, the recording teller needs only to make a mark in the appropriate box on the tally sheet opposite such a candidate's name. (see sample tally sheet on page 259)

If only one or two write-in votes are found in a block of ballots, the recording teller may enter a mark on the tally sheet opposite "scattering" except for the write-in candidates for president/vice president which must be recorded by name. (see A. 6. c. (1) candidate's name on page 157) In some towns, however, all valid write-in votes cast are recorded by name of candidate on the block tally sheets in case a write-in candidate who receives only a few votes in one block receives a large number of votes when all blocks are added together. At almost every election a write-in vote or two will be found for Mickey Mouse, Marilyn Monroe, Digger O'Dell, etc. Such a write-in vote may be recorded under scattering or as a blank.

If a large number of write-in votes are expected, particularly for those offices under which no candidate's name appears on the ballot, a separate write-in tally sheet may be used. (see sample write-in tally sheet on page 261) In this case, the candidate's name, address and the total number of votes received should be transferred to the block tally sheet before the totals are calculated. The write-in tally sheet should be kept with the block tally sheet and the block of ballots.

In some towns, write-in votes are entered on a piece of blank paper and then transferred to the block tally sheet. In this case, the paper should be attached to the block tally sheet.

11. Enter Total Votes and Blanks on Block Tally Sheet [Regs. 51.04(14), 52.04(21)]

After the votes on all the ballots in the block have been recorded, the teller should enter on the block tally sheet under each office, the total number of votes recorded for each candidate, including write-in candidates and scattering, if any, and the total number of blanks recorded. These totals are

entered in the column entitled "TOTALS" on the right side of the tally sheet. (see samples on pages 259 and 260)

12. Balance Votes Under Each Office [Regs. 51.04(14), 52.03(21)]

Under each office, the tellers should balance the number of votes and blanks recorded with the number of ballots cast. First, calculate the sum of the votes for each candidate, write-in candidates, scattering, if any, and the number of blanks. If there is one person to be elected to the office, the sum should equal the number of ballots in the block. If two are to be elected to the office, the sum should equal twice the number of ballots in the block. If more than two are to be elected, the sum should equal the number of ballots in the block multiplied by the number to be elected.

Example: If 35 persons are to be elected to the town committee and a block of 25 ballots has been counted, the sum should equal 35 multiplied by 25, or 875.

If the number of votes and blanks does not balance, first recount the number of marks entered on the tally sheet opposite each candidate, write-in candidate, scattering and blanks to be certain that the number entered in the total column is correct. Then recalculate the sum of the numbers entered in the total column. If the sum is correct but still does not balance, the ballots themselves should be recounted following the procedure outlined in B. 7. through 10. on pages 161-171. However, only the office which does not balance needs to be recounted.

As the votes are read, the recording teller should make a mark on the original mark to indicate it has been recorded correctly. The second mark may depend upon what kind of mark was used for the original recording.

Example: If a slanted line was made, mark a line through it to make a cross. If a check mark was made, a line can be drawn through the tail of the check mark. (see sample on page 259)

If an error is found, draw a circle around the original incorrect mark or number in the total column. Do not erase the original mark or numbers since erasures on a tally sheet may cause questions to be raised at a later time during a recount. If space permits, the word "error" can be entered next to the circled mark or number. Then enter a mark in a box opposite the correct candidate's name or blanks and correct the totals.

13. Both Tellers to Sign Block Tally Sheet and Block Envelope [Regs. 51.04(15), 52.04(22)]

After the block tally sheet has been completed and the votes under each office have been balanced, both tellers should

sign it on the lines provided in the upper right corner. Both tellers should also sign the block envelope. In some towns, block envelopes are prepared with lines on which the tellers should sign. (see PREPARING ELECTION MATERIALS, III. ENVELOPES, B. 1. in Volume 3 of this series)

14. Return Material to Election Clerk [Regs. 51.04(15),
52.04(22)]

The tellers should place the block of ballots and the block tally sheet in the block envelope and return it to the election clerk. The envelope should not be sealed at this time.

In some towns, one of the tellers leaves the table to return the ballots to the clerk and obtain a new block of ballots, tally sheet and envelope, if necessary. In other towns, tellers raise their hands to show that the block has been completed and the clerk collects the completed block and distributes a new block of ballots, tally sheet and envelope.

15. Total Vote Sheet [54:105; Regs. 51.04(20)]

Note: In towns voting by precincts, the total vote sheet referred to in this section is the precinct total vote sheet. In towns without precincts or voting by grouped precincts, the total vote sheet referred to in this section is the same as the town total vote sheet. (see XXIII. TOWN TOTAL VOTE SHEET on page 240)

As each completed block of ballots is returned, the election clerk should check the totals on the block tally sheet to be certain that a balance has been obtained under each office. If not, first check for an error in entering the totals or an error in calculating the sum. If that does not balance the totals, return the block to the tellers who counted it and have them recount the votes under the office which does not balance.

If the block tally sheet balances under each office, proceed as follows:

a. record totals from block tally on total vote sheet
[54:105; Regs. 51.04(20)]

The result of the canvass and count shall be reported to the warden who shall cause it to be correctly recorded on the blank forms provided therefor. [54:105] The election clerk and warden shall have the results of each block of ballots entered on the total tally sheet. [Regs. 51.04(20)]

In some towns, if the town clerk is at the polls on election day, he records the block totals on the total vote

sheet. In other towns, the election clerk records the totals. In any case, it is suggested that one person read the numbers from the block tally sheet and another person of a different political party record the numbers on the total vote sheet using the same procedure as outlined in B. 7 and 8. on pages 164 and 165, except that method one and method two outlined on page 166 do not apply to the total vote sheet. Numbers are recorded instead of marks. (see sample total vote sheet on page 262)

The person recording the numbers should use only a red pencil or pen. [54:80]

The person reading the numbers should first read the block number then the candidate's name and the total number of votes received. The recorder should be certain that all votes from that block are recorded on the total sheet in the row opposite that block number. If votes for a write-in candidate are to be recorded, the recorder will need to enter the name and address on the total vote sheet, unless these have already been entered. In some towns, the recorder uses a ruler, placing it under the row in which numbers should be entered.

It is suggested that the recorder repeat the number of votes before recording it to be certain he has heard it correctly.

Each block tally sheet should be checked and the totals entered on the total vote sheet as soon as it is received from the tellers. If a number of blocks are permitted to accumulate before recording on the total vote sheet begins, obtaining the total vote and the public announcement of the results may be delayed.

In some towns if a large number of blocks must be counted, two total vote sheets are prepared and as soon as a teller team has completed one block of ballots, that team enters the totals on a total vote sheet. Instead of counting a second block of ballots, that team then continues to enter block totals on the total vote sheet. A second team enters block totals on the other total vote sheet and when all blocks are entered the subtotals from each total vote sheet are added to obtain the grand total. This will permit recording blocks to proceed more quickly.

However, if this method is to be used, one total vote sheet should be lettered A and the other lettered B. The blocks should be numbered and lettered, 1A, 2A,... and 1B, 2B.... Blocks lettered A should be recorded on total vote sheet A and blocks lettered B should be recorded on total vote sheet B. The grand total may be entered on either

total vote sheet. (see PREPARING ELECTION MATERIALS, II. TALLY SHEETS, B. 3. a. 2) in Volume 3 of this series)

b. calculate total vote [54:105; Regs. 51.04(21)]

After all block totals have been entered on the total vote sheet, each column should be added to obtain the total number of votes for each candidate, including write-in candidates and scattering, the total number of blanks, and the total number of ballots cast. The totals should be entered under each column in the row opposite Totals. In many towns, an adding machine is provided for the person calculating the totals.

Note: If there are fewer than 35 blocks of ballots, two or three blank rows may be left on the sheet and the totals are entered in the next row instead of using the row entitled Totals.

In some towns, a subtotal is calculated and entered on the total vote sheet after each five blocks have been recorded. The subtotal is entered next to the fifth, tenth, fifteenth,...block total in each column. When all block totals have been recorded, only the subtotals are added to obtain the total vote. This method may save some time since adding a long column of figures is more time consuming and subject to error. (see sample on page 263)

c. balancing the total vote sheet

After totals have been recorded under all columns on the total vote sheet, it should be balanced to be certain that the numbers recorded are correct. Under each office, obtain the sum of the totals under each column, including all candidates, scattering and blanks. If one person is to be elected, the sum should equal the total number of ballots cast. If more than one is to be elected, the sum should equal the total number of ballots cast multiplied by the number to be elected. For ballot questions, the sum of YES votes, NO votes and blanks should equal the total number of ballots cast.

d. completing the total vote sheet [51.04(22)]

The warden and clerk should enter the date of the election, precinct number, if any, and the name of the town in the spaces provided at the top of the sheet, if this information has not already been entered. In addition, unless a column has been provided under each office for total votes cast, the total number of ballots cast should be entered, either in the space provided at the top of the sheet after TOTAL VOTE, or in the clerk's certificate. (see e. below)

e. election clerk's certificate [54:105]

The election clerk must certify the record of the election. In addition to the numbers recorded on the total vote sheet, the clerk must certify to the number of names marked on the voting list and the total number of ballots cast. In many towns, the certificate is typed on the total vote sheet and the clerk signs on the line provided. (see PREPARING ELECTION MATERIALS, II. TALLY SHEETS, B. 3. b. - election clerk's certificate in Volume 3 of this series)

Note: 54:105 requires that the total number of names marked on the list of those qualified to vote only for electors of president and vice-president be entered separately on the total vote sheet. (see 51:1A) However, a list of such voters is no longer required or prepared for use at the polls.

f. warden and clerk to sign total vote sheet [Regs. 51.04(22)]

Both the warden and clerk should sign the total vote sheet. A line on which the warden should sign may be provided on the sheet directly under the line for the clerk's signature required for the certificate.

C. PROCEDURES - VOTING MACHINE TOWNS

In voting machine towns, the procedures to be used in counting absentee and challenged ballots are the same as for counting paper ballots outlined under B. 2. through 14. on pages 162-173. The procedures for counting ballots cast on the machines are outlined below. Some of the steps to be taken will depend upon whether or not the machines are printomatic as noted in each case.

In some towns, the warden and clerk work together on the voting machines after the polls close. In other towns, two inspectors of different parties work together. If there is a large number of voting machines in the polling place, two or more teams of inspectors are sometimes scheduled to work on the voting machines. (see ELECTION OFFICERS in Volume 3 of this series)

1. Obtain Voting Machine Keys

Two election officers of different parties should obtain the voting machine keys. In some towns, these are placed on the shelf under the public counter as soon as the polls close. (see XV. E. 1. on page 150)

2. Printomatic Machines [Regs. 52.04(9)(a)]

a. obtain hand crank

In some towns, a hand crank is left outside the machine after the proof sheet is obtained before the polls open. If not, the election officers should unlock the top rear door using Key no. 3 and take the hand crank out of the compartment. The same hand crank can be used on all machines.

b. remove printer pack from each machine [Regs. 52.04(9)(a)(1)]

To remove the printer pack, place the hand crank on the stud at the right of the machine and vigorously crank clockwise. This procedure moves the platen from the left to the right and prints on the pack the numbers registered on the candidate and question counters.

Be sure that the platen is cranked all the way to the right. The pack will drop out of the slot just under the large center rear door.

c. separate and distribute the pack sheets [Regs. 52.04(9)(a)(1)]

In some towns, one team of election officers removes the packs from the machines and another team separates and distributes the sheets. The pack sheets, sometimes called "returns," should be separated and distributed as follows:

- original sheet

The sheet which was closest to the counters is considered the original sheet. This sheet should be separated first and given to the tellers who are to read and record the votes since the numbers are usually printed more clearly on this sheet than on any of the others.

In some towns, the number of votes to be subtracted from the public counter due to machine failure or moving a voter to another machine, is noted on the sheet next to the box containing the inside public counter number before the sheet is given to the tellers. (see sample machine pack sheet on page 264)

- second copy

A second copy of the sheet may be made available at this time for examination by candidates or their

representatives as required under 54:35B, by media representatives and by any other observers who may be at the polling place.

This copy of the sheet may be placed on a table or posted on the walls at the polls. In either case, it should be placed outside the guard rails since the public is not permitted within the guard rails while the votes are being counted. (see XII. B. on page 128)

- third copy

A third copy of the sheet may be placed in the box for miscellaneous unofficial election materials, such as pens, pencils, rulers, etc. which is not sealed after the public announcement of the vote. This copy would be used by the town clerk in his office for checking the total vote sheets completed at the polls and for reference after the election.

- other copies

In some towns, printer packs having more than three copies are used. In this case, the extra copies are sometimes provided to the chairmen of the two town committees in primaries.

- cover sheet

On most printerpacks, there is also a cover sheet on which no numbers are registered. This may be disposed of.

d. one teller to read aloud from sheet [54:35B; Regs. 52.04(9)(a)(2)]

One teller should read aloud the numbers recorded on the sheet. First read the number of the machine appearing in the box entitled MACHINE NUMBER at the right side of the sheet next to counter row C. Then read the number recorded in the box entitled PUBLIC COUNTER at the right side of the sheet next to counter row A unless, in a primary, both parties appeared on each machine. (see - primaries below) From the number appearing in the public counter box, subtract the votes recorded due to machine failure, etc., if any. The machine number and the public counter number need to be read only once regardless of the type or the format of the total vote sheet used.

Note: There will be two numbers in the public counter box. The top number is that registered after the polls closed. The bottom number is that registered before the

polls opened and if this number is not 000, it should be subtracted from the top number before that number is read aloud.

The teller should then read, one at a time, the number and letter of each candidate counter and the number of votes recorded on it until all the candidate counters being used at that election have been read.

Example: The teller reads, "1A, 142; 2A, 130; 3A, 68..." until all the candidate counters used at that election have been read. (see sample total vote sheet on page 265)

Note: Two sets of numbers will appear on the sheet in each row under each column number and letter. The top number is that registered on the counter after the polls closed. The bottom number is that registered on the counter before the polls opened and if this number is not 000, it should be subtracted from the top number before that number is read aloud.

The results must be read in the order in which the offices appear on the machine. [54:35B] The order will depend upon the number of rows used in the election as follows:

- row A candidate counters only were used

If all candidates on the ballot appeared in row A, the counters should be read in order across the page from right to left until all candidate counters used have been read.

- rows A and B candidate counters were used

If both rows A and B were required to include all candidates on the ballot, the teller should read across the page from right to left. However, the counters in row A and row B used for a given office should be read before reading the counters in the next office. The total vote sheet should be arranged in order by office. (see sample total vote sheet on page 266)

Example: For the office of town meeting member, the teller reads 25A, 16; 26A, 20; 27A, 32; 28A, 9,... until all counters for that office in row A have been read. Then he reads 25B, 8; 26B, 14; 27B, 22 ... until all counters for that office in row B have been read. Then the teller should start reading the column number and letter and the number of votes shown on the sheet in row A for the next office.

- primaries, both parties on same machine

If the ballots of both parties are installed on the same machine, the procedure is similar to that used for only one row of counters. However, the row of counter numbers to be read will depend upon the party whose votes are being counted.

The Democratic primary ballot would appear in a different row from the Republican primary ballot on the front of the machine. Read only the row from the pack sheet related to the party whose ballots are being counted.

Example: The Democratic primary ballot appeared in row C and the Republican primary ballot appeared in row A on the machine. To count Democratic votes, read the counter numbers and the votes recorded only in row C. The numbers on the candidate counters in row A should be ignored at this time since that row will be read when the Republican votes are being counted.

In addition, the public counter number should not be read since the number appearing on that counter is the total number of ballots cast in both parties. The total number of ballots cast in the Democratic party on each machine cannot be separated from the total number cast in the Republican party since there is no mathematical way to determine how many blanks were cast in each party.

- primaries, different machines for each party

If different machines were used for each party, the procedures are the same as outlined above for row A only, or for rows A and B if two rows were used. In this case, the public counter number should be read since it is the total number of ballots for that party cast on that machine.

- questions

After the votes registered on all candidate counters have been read, the votes on question counters should be read. [54:35B]

- questions at top of machines

If the questions were placed at the top of the machine, the number of votes cast will appear in the row across the top of the pack sheet. The number above the votes registered on the counters, 1, 1, 2,

2, 3, 3, ... is the number of the paired YES/NO counters and can be ignored. The column number, but no letter, appears directly below the words YES and NO on the sheet.

The votes registered on the counter appear in two sets of numbers in the row above YES and NO. The top number is that registered on the counter after the polls close. The bottom number is that registered on the counter before the polls open and if it is not 000, it should be subtracted from the top number before that number is read aloud.

The answers to each question will appear in the last two columns required for the printed question text. Usually, 000 will be printed in the first two columns on the pack sheet since almost all questions require more than two columns. The YES votes for question number 1, will appear in the first YES column in which numbers other than 000 are printed. Note that for each question, YES votes should appear in an odd numbered column and NO votes should appear in an even numbered column.

If the column numbers for answers have been entered on the total sheet, the reader should read that column number first, then the number of votes. If the column numbers have not been entered on the total sheet, the reader should first say "Question 1", then YES and the number of votes, then NO and the number of votes. To find the answers for question number 2, skip the next several columns showing only 000 until you find an odd numbered column having votes recorded. These are YES votes for question number 2 and NO votes for question number 2 will appear in the next column to the left. The answers to the last question may appear in columns far to the left on the pack sheet regardless of the number of columns used by candidates. Be certain to check the entire question row.

-- question at end of office ballot label

In town elections, questions may be placed at the end of the office label and the answers placed in row A after the last candidate's name. The answers to each question will appear in the last two columns required for the printed question text.

Example: The name of the last candidate on the ballot label appears in column 24A. If the text of question number 1 is printed in columns 25 through

29 on the office label, YES would be printed in column 28A and NO would be printed in column 29A on the candidate label. If the text of question number 2 is printed in columns 30 through 34, YES would be printed in column 33A and NO would be printed in column 34A.

In this case, the reader should read the column number and letter, then the number of votes shown on the pack sheet. Using the example above, note that 000 would appear on the pack sheet in columns 25A, 26A and 27A and in columns 30A, 31A and 32A.

If, however, the column number and letter has not been entered on the total sheet, the reader should first say, "Question 1," then YES and the number of votes, then NO and the number of votes.

e. other teller to record votes [Reys. 52.04(9)(a)(3)]

When the machine number is read, the recording teller should find that machine number in the first column on the total vote sheet. The machine pack sheets may not be given to the teller team in the order in which the machines are listed on the total sheet but it is essential that the votes cast on each machine be recorded in the correct row. He should then proceed as follows:

- record public counter number

The public counter number, less any votes subtracted for machine failure, etc., should be recorded on the total vote sheet for each machine. If Form E-231A is used and the column entitled TOTAL is provided under each office (see sample Form E-231A on page 265), the public counter number should be entered in that column under each office in the row for the machine being read. If more than one person is to be elected to the office, the public counter number should be multiplied by the number to be elected before it is entered under that office. If a column entitled TOTAL is not provided under each office, the public counter number should be entered at least once on the total sheet for each machine. (see sample total vote sheet on page 267)

If Form E-231M is used, the public counter number should be entered in the second column entitled VOTES CAST. (see sample Form E-231M on page 268)

- record number of votes for candidates

The recording teller should enter the number of votes for each candidate as they are read. Be certain that votes are entered in the column having the counter number and letter stated by the reader and in the row opposite the machine being counted. The counter number and letter appear only in columns having candidates' names or in columns provided for write-in votes when no candidates' names appear on the ballot. The number and letter is not needed in any of the other columns, such as scattering, blanks and total.

Note: In some towns, the counter number and letter are not entered on the tally sheet. In this case, the recording teller will need to refer to a specimen ballot to be certain that the number of votes stated is entered in the correct column.

In some towns, the recording teller repeats aloud the counter number and letter and the number of votes before entering the number on the total sheet.

- record number of votes for questions

After the votes cast for candidates on that machine have been recorded on the total sheet, the number of YES or NO votes cast on the same machine for ballot questions should be entered. The recorder should be certain that the votes are entered on the total sheet in the correct columns and opposite the correct machine numbers for each question.

f. return pack sheet to election clerk

After the public counter, and all votes for candidates and questions read from the pack sheet have been recorded, the sheet should be turned over to the election clerk. The procedure outlined under d. and e. above should be repeated for the next machine until all machine packs have been recorded.

Note: If the election clerk is recording the votes, the machine packs should be set aside in a pile until all machine packs have been recorded.

3. Non-printomatic Machines [54:35B; Regs. 52.04(9)(b)]

For non-printomatic machines, the votes for candidates and questions must be read directly from the counters on the back of the machine. The following procedures should be used:

a. open top and center rear doors

Using key no. 3, unlock and open the top rear door of the first machine. Then open the center rear door using the latch. All the candidate and question counters will be exposed. [Regs. 52.04(9)(b)(1)]

b. read machine number and numbers registered on counters
[54.35B; Regs. 52.04(9)(b)(2)]

The warden or an election officer, in the presence of an election officer of a different political party, must read and announce in distinct tones the numbers from the counters. As one person reads, the other should observe to be certain that the numbers are read correctly.

First read the machine number embossed on the plate at the right side of the counter compartment so that the recorder will know where to enter the votes on the total sheet. Then read the number recorded in the public counter at the right side of the machine next to the first candidate counter in row A, unless in a primary, both party ballots are on each machine. From the public counter number, subtract any votes recorded due to machine failure, etc.

The reader should then announce, one at a time, the number and letter of the candidate counter and the number of votes recorded on it until all candidate counters used in that election have been read. The number and letter of each candidate counter is stamped on the metal directly below the counter wheels.

The order in which candidate counters are read will depend upon the number of rows being used at the election the same as for printomatic machines, except that the numbers are read directly from the counters instead of from the pack sheet. (see C. 2. d. on page 178) The results must be read in the order in which the offices appear on the ballot.

If a number was found to be registered on a candidate counter during the examination before the polls opened, that number must be subtracted from the vote before it is recorded. In this case, the certificate posted on the wall or entered in the election record should be checked to determine the number of votes to subtract.

After all candidate counters have been read, the question counters should be read using the same procedures as outlined under C. 2. d., - questions on page 180, except that the votes should be read directly from the counters

instead of from the pack sheet. The number of the paired YES/NO counters are stamped on the metal directly above the counter wheels at the top of the machine. The words YES and NO and the column numbers are stamped on the metal directly below the counter wheels. Note that if there is a large number of questions or the text of some questions is long, the answers to the last question may appear on counters far to the left. Check for numbers recorded on the counters in the entire row.

c. record votes on total sheet [54:35B; Regs. 52.04(9)(b)(2)]

As each vote is read and announced, it shall be recorded on the total sheets. In many towns, the election clerk records votes on the total vote sheet. An election officer may record votes. Another election officer, may observe the recorder to be certain the votes are accurately recorded, but this is not required by the General Laws or by the Regulations. In some towns, the recorder repeats the number of votes before entering it on the sheet and doing so may satisfy the requirements of 54:35B outlined under d. below.

The method for recording votes on the total sheet is the same as outlined for printomatic machines under C. 2. e. on page 182.

d. compare votes recorded with numbers registered on machine counters [54:35B]

54:35B requires that when the record on the total sheet is completed, it shall be compared with the numbers on the counters on the machine. The recorder should read the number and letter of each counter entered on the total sheet and vote recorded for each while an election officer looks at the counters on the back of the machine.

Note: Regulation 52.03(9)(b) does not contain this requirement and in many towns, this procedure is not used particularly if an election officer is observing the recorder or if the recorder repeats the number aloud before recording it.

4. Counting Write-in Votes [54:33D, 35B; Regs. 52.04(9)(c)]

The votes written in or voted by stickers for persons not named on the ballot labels of the machines shall be announced and recorded. [54:35B] In order to be counted, however, the write-in votes must appear on the write-in paper. For example, a sticker found elsewhere on a machine cannot be counted even if the office has been entered. [54:33D] The procedures for

counting write-in votes are the same whether or not machines are printomatic and are as follows:

a. open top rear door [Regs. 52.04(9)(c)]

Two election officers of different parties should open the top rear door on the voting machine using key no. 3. The paper on which write-in votes are cast will appear on rollers behind this door. Check the paper on the lower roller.

If the red sticker, or the date and signature entered before the polls opened, is showing, no write-in votes were cast. The election officers should proceed to the next machine and check the write-in paper.

If, however, the red sticker or date and signature cannot be seen, write-in votes may have been cast and the election officers should proceed as follows:

b. remove write-in paper from lower roller

The election officers should first lift up and pull out latch A at the left end of the lower roller. This permits the rollers to be moved. The procedures for removing the write-in paper vary somewhat among towns and one of the following may be used.

(1) Before moving the rollers, draw a pencil line across the paper on the upper roller. Then grasp the upper roller and rotate it away from you. At the same time, grasp the lower roller and rotate away from you to wind more paper around the lower roller. Continue until the line drawn on the top roller appears on the bottom roller. This will ensure that all write-in votes cast are on the paper to be removed.

Then remove the paper from the lower roller by rotating it toward you. Continue until the paper is completely unwound and pull the end out of the slots or off the roller. If a large number of write-in votes were cast, the paper may be lying on the floor. If so, it may be rolled up by hand.

Then cut the paper near the lower roller at the pencil line using the scissors, penknife or razor blade provided.

(2) Remove the paper from the lower roller by grasping the roller and rotating it toward you. Then pull the end out of the slots or off the roller. Grasp the upper roller and rotate it away from you while pulling on the loose end

of the paper. Unwind about one foot of additional paper from the upper roller. Lift up the paper and check to be certain that all write-in votes are below the point where you are going to cut the paper. If not, unwind more paper from the upper roller. Then cut the paper near the lower roller.

Regardless of the method used to remove write-in paper, it is suggested that you not cut the paper at the upper roller. Doing so will require the custodians to rethread the paper through the write-slots as though they were installing a new roll of paper. This causes unnecessary time consuming work during preparation for the next election. In some towns, only the custodians of voting machines remove write-in paper from the machines.

Check the write-in paper to be certain that the machine number has been entered either in the space provided on the red sticker, or on the paper itself next to the date and signature. If not, the election officers should enter the machine number.

c. read write-in votes aloud

If only a few write-in votes are found on the write-in paper, the election officer can read these votes to the person recording votes on the total sheet immediately after removing the paper. In most cases, these votes will be recorded under scattering for that machine. The election officers should then proceed to remove the write-in paper from the next machine.

If, however, there is a large number of write-in votes, the election officers who removed the paper may give it to the recorder and in this case, two election officers of different parties should work as a team, one reading votes from the paper and the other recording.

In some towns, a separate team of tellers is assigned to counting write-in votes. In this case, the write-in paper, a write-in block tally sheet and a red pencil or pen should be given to these tellers.

Note: Some time can be saved in towns having printomatic machines, if the pack from two or three machines is removed and given to the tellers counting machine votes. Then the write-in paper is removed from those machines and given to the tellers counting write-in votes. After that, the machine packs and write-in papers are removed from the remaining machines. In this way, two teams of tellers can start to work as soon as possible after the polls close.

A similar procedure can save time in non-printomatic towns if a separate teller team is assigned to counting write-in votes. The write-in paper can be removed first and given to the tellers. Then the votes can be read from the candidate and question counters while the write-in tellers are working.

Write-in paper is divided by heavy black lines into the same number of columns as there are candidate pointers in each row on the front of the machine. Each column is numbered 1, 2, 3... through 40 or 50 depending on how many columns there are on the machine. These column numbers are printed across the entire width and are repeated at intervals of about 3 1/2 inches down the entire length of the paper.

As the paper is held with the tapered end up, the write-in votes appear upside down. The beginning of the name and address will be approximately in the middle of the column in which it was entered and the end of the name and address may extend over the heavy black line into the next column. (see sample write-in paper on page 269)

The write-in votes will be easier to read, if the paper is placed over the end of a table with column 1 toward the center. Long write-in paper can be draped over the edge of the table onto the floor, if necessary.

The reader should start at the tapered end. Read the machine number. Then read the column number and the name and address entered. To prevent the same vote from being read and recorded twice, it is suggested that the reader circle in red the valid write-in votes as he reads them.

The reader should be certain to examine every write-in he finds on the paper. The guidelines to use in determining whether or not a write-in vote is valid and should be counted are outlined under A. 6. on page 153. If the reader is in doubt as to whether or not the vote is valid, he should ask the recorder to examine it. If the two tellers cannot agree, the warden should be called for his opinion.

After one write-in paper has been completed, another should be read until all the write-in papers removed from the machines have been completed. If there is a machine number entered on the tally sheet but no paper is found having that number, the tellers should check with the warden to be certain that the write-in paper did not need to be removed from that machine.

- primaries, different machines for each party

In primaries, if different machines are used for each party, the procedure for reading and recording write-in votes is the same as for general elections.

- primaries, both parties on the same machine

If both parties are on the same machine, the number of perforations on the edge of the paper having the highest column number will indicate the party in which the vote was cast. The perforations are raised bumps in the paper. If the party lever is set on 1 for a Democratic voter and on 7 for a Republican voter, one perforation indicates that the write-in vote was cast in the Democratic primary and seven perforations indicate the write-in vote was cast in the Republican primary.

In reading the write-in votes cast, the reader will need to check the perforations at the edge of the paper to be certain he is reading a write-in cast in the same party as that entered at the top of the write-in tally sheet.

If several write-in votes are cast for different offices by the same voter, they will all appear in a row across the paper. If the write-in votes are widely separated on the paper, placing a ruler across the paper parallel to a row of column numbers will help the reader determine the party in which the votes were cast. It is not possible for a given row of write-in votes to be mixed by party if the paper moved properly as each voter registered his vote.

d. recording write-in votes

- enter vote directly on total sheet

If only a few write-in votes are found, these can be recorded directly on the total vote sheet. In presidential elections, if the name written in appears on the list of candidates for president/vice-president forwarded by the state secretary, the name should appear at the top of a column on the tally sheet under that office. The votes should be entered in that column opposite the correct machine number. If a write-in vote is found under the office president/vice-president but the name of the candidate is not included in the state secretary's list, it should be considered a blank.

- enter votes on separate write-in tally sheet

If, however, there is a large number of write-in votes, particularly for an office under which there is no candidate's name on the ballot, it is helpful to use a separate write-in tally sheet. (see sample write-in tally sheet on page 270)

As the teller reads the machine number, the recorder should find that number in the first column on the tally sheet. He should then enter on the tally sheet in the second column and in the first row assigned to that machine, the column number announced by the reader. He must then enter the candidate's name and address and make a mark in the first box available for recording a vote opposite the candidate's name.

Note: In town elections or for candidates for town committee in presidential primaries, the name and address of the candidate, as it appears on the voting list, if possible, should be written in on the tally sheet. If the write-in candidate is known prior to the election, the name may have been entered already, or it may appear in a note attached to the tally sheet. Otherwise, the tellers can find the name on the voting list or list of persons if available at the polls. Or, in any primary or election, if the candidate has used stickers, the name and address as registered would probably appear on the sticker.

If the same column number, candidate name and address is read a second time for that machine, the recorder needs only to make a mark in the next available box opposite the name even if the name or address is not exactly the same as registered or as the first time it was read. A mark should be made on the tally sheet, each time any acceptable version of the name and address is read for that machine and that column number.

If, however, a different column number is read, that number should be entered in the second column and in the second row on the tally sheet. The name and address must be entered on the tally sheet even if it is the same as a name and address read for the first column number. The different column number may indicate a vote for that person for a different office. (see - special cases below)

Also, each time a different candidate's name and address is read, whether the column number is the same

as or different from a previous column number, a new row should be used.

- special cases

(1) one person to be elected to the office and two or more candidates' names are printed on the candidate label.

In this case, the same name written in by different voters in any one of the columns used by that office are counted as votes for that person for that office.

Example: Board of health appears in columns 6, 7 and 8 on the office label since there are three candidates' names printed on the candidate label for that office. A write-in vote for James Smith entered by one voter in column 6, entered by a second voter in column 7 and by a third voter in column 8 are recorded on the total vote sheet as three votes for James Smith for board of health. However, each of these votes would appear in a different row on write-in paper since they were cast by different voters. Each vote would be recorded in a different row on the write-in tally sheet since the column numbers are different.

(2) two persons to be elected to the office

In this case, the office title appears in at least two columns on the office label. A voter may write-in two different candidates' names, one name in each column. However, if the voter writes in the same name in both columns, only one vote can be counted for that person.

Example: Two selectmen are to be elected. The office appears in columns 2, 3 and 4 since there are three candidates' names printed on the candidate label. A write-in vote for Frank Fish entered in column 2 and for William White in column 3, are recorded as one vote for Frank and one vote for William for selectman. Both of these votes would appear in the same row on the write-in paper since they were cast by the same voter but would be recorded on different rows on the write-in tally sheet since the candidates' names and the column numbers are different. However, if Frank Fish was entered in column 2 and again in column 3 in the same row on the write-in paper, only one vote for Frank Fish may be recorded since one voter wrote in the same candidate twice for the same office.

e. obtain totals on separate write-in tally sheet

After the votes on the write-in paper from a machine has been read and recorded, obtain the total number of votes for each row in which a column number and candidate's name appears on the tally sheet. Enter the total vote in the column at the right side of the paper entitled TOTALS.

f. tellers to sign separate write-in tally sheet

After the total votes for each write-in candidate on all machines have been entered, the tellers should sign the tally sheet in the spaces provided at the top right.

Note that the total number of write-in votes cast on the machines is not calculated and the tally sheet cannot be balanced.

g. write-in papers and tally sheet to be given to clerk

The completed write-in papers and write-in tally sheet should be given to the election clerk. The totals from the write-in tally sheets will need to be transferred to the total vote sheet. The write-in papers should be placed in a fibreboard box with other official election material. (see XIX. C. 2. on page 230)

5. Counting Absentee and Challenged Ballots

The procedures for counting absentee and challenged ballots in a voting machine town are the same as outlined for counting paper ballots under B. 2. through 14. on pages 162-173.

In some towns, a separate team of tellers is assigned to counting the absentee and challenged ballots. If so, time can be saved if the absentee and challenged ballots are removed from the ballot box after one or two machine packs have been removed in printomatic towns, or before the back of the machines are opened in non-printomatic towns. In this way, the team assigned to absentee ballots can work while the machine vote is being obtained.

After the absentee and challenged ballots have been counted, the totals from the block tally sheets must be transferred to the total vote sheet. (see 6. d. on page 195)

6. Calculate Total Votes and Enter on Total Vote Sheet

Note: In towns voting by precincts, the total vote sheet referred to in this section is the precinct total vote sheet. In towns without precincts or voting by grouped precincts, the total vote sheet referred to in this section may be the same as

the town total vote sheet if blanks are calculated and entered.
(see XXIII. TOWN TOTAL VOTE SHEET on page 240)

In tabulating votes, the total number of votes cast for each candidate and the total number of yes and no votes cast for each question as recorded by the machines shall be entered on the total sheets. [54:35B]

- a. calculate total machine count
[54:35B; Regs. 52.04(10)]

While waiting for the absentee and challenged ballot block tally sheets and the write-in votes, the tellers should start to calculate the total machine vote for each candidate and question by obtaining the sum of the votes entered for each machine in each column headed by a candidate's name, by YES and by NO. Enter the totals in the row under the last machine number. An adding machine should be provided for each team of tellers working on a total vote sheet.

The total number of votes cast by machine should also be calculated by obtaining the sum of the public counter numbers entered on the sheet.

Note: If tellers are required to calculate the blanks on each machine, this cannot be done until after the write-in votes have been recorded on the total sheet.

- b. enter write-in votes and calculate total

The write-in votes must be entered on the total vote sheet in the columns entitled SCATTERING or WRITE-IN on the sample shown on page 265, or in the columns not titled on the sample shown on page 267. Write-in votes should be entered on the total vote sheet either when read directly from the write-in paper or from the separate write-in tally sheet. (see 4. Counting Write-in Votes on page 185) If votes are being obtained from the write-in tally sheet, one teller should read the machine number, the column number, the candidate's name (and address), and then the number of votes.

If a write-in candidate's votes are to be recorded by name, the name must be entered at the top of the column on the total vote sheet before the number of votes is entered. If so few write-in votes were cast that they do not need to be counted by name, the number of votes may be entered in the column entitled SCATTERING. (see sample on page 265) Be certain that the write-in votes, whether under a candidate's name or under scattering, are entered in the row opposite the correct machine number even if the write-in

candidate was running for a different office. The votes for the same person for the same office should be added together and entered on the total vote sheet even though the votes were entered in different columns on the write-in paper. (see 4. d. - special cases on page 191)

After all votes for write-in candidates for all machines have been entered on the total vote sheet, obtain the sum of write-in votes under each office and each appropriate column. Enter the sum on the row opposite TOTALS.

c. calculate blanks (votes cast by machine)

In some towns, the number of blanks are calculated for each machine and entered on the total sheet in the column entitled BLANKS. (see sample Form E-231A on page 265) However, this is not required by the General Laws or the Regulations. In some towns, blanks are calculated only for the total machine vote rather than for each machine and entered in the column entitled BLANKS only in the row opposite TOTALS. (9th row shown on the sample on page 267)

In other towns, the total number of blanks is calculated only on the town total vote sheet either on election night after the completed precinct total vote sheets have been received or shortly after election day prior to preparing the permanent election record. (see XXIII. TOWN TOTAL VOTE SHEET on page 240)

In any event, blanks are calculated by obtaining the sum of the votes for each candidate, including write-in candidates and scattering, and subtracting that sum from the total number of ballots cast. If two or more persons are to be elected, the sum should be subtracted from the number of persons to be elected multiplied by the total number of ballots cast.

If the blanks for each machine are calculated, the sum of votes for candidates should be subtracted from the public counter number entered on the total vote sheet for each machine, or if more than one is to be elected, public counter number multiplied by the number to be elected.

However, in a primary when both party's ballots are installed on each machine, the blanks for each machine cannot be calculated. (see 2. d. - primaries, both parties on same machine on page 180) However, the total number of machine blanks for each party can be calculated. Subtract the number of absentee and challenged ballots cast in a party from the total number of names marked on the voting list in that party. The result is the total number of

machine ballots cast in that party. From that number subtract the sum of the votes cast for each candidate for that party under a given office if one is to be nominated. If two are to be nominated, multiply the number by 2 before subtracting candidates' votes. The result is the total number of machine blanks cast in that party under that office.

While calculating the blanks for each machine takes time, it sometimes helps to find an error on election night before the results are publicly announced. If the sum of all the votes for candidates is larger than the total number of votes for that machine, the pack sheet or the counters themselves and the write-in votes should be checked.

In addition, calculating blanks for each machine permits the total machine vote to be balanced. Obtain the sum of the total machine votes for each candidate or question. Subtract that sum from the total votes cast. The result should equal the sum of all blanks recorded in the BLANKS column.

- d. enter totals from absentee/challenged ballot block tally sheets on total vote sheet [54:35B; Regs. 52.04(27),(28)]

The totals of ballots cast by challenged and absentee voters shall be recorded separately and added to the total vote cast by the use of voting machines. One election officer should read aloud the totals entered on the block tally sheet and an election officer of a different party should record the votes on the total vote sheet in the row opposite ABS. BAL. 1. If more than one absentee/challenged ballot block tally sheet was required, the results shown on the second sheet should be entered on the total vote sheet in the row opposite ABS. BAL. 2. (see sample on page 265)

Note that the total number of blanks recorded on the block tally sheet under each office should also be entered on the total vote sheet in the column entitled BLANKS (see sample on page 265), or in a column having no title. (see sample on page 267)

Then add the votes from the absentee and challenged ballots to the total machine votes and record the sum in each column on the total vote sheet in the row provided.

- e. two teams of tellers for machine count

In some towns using more than 10 voting machines in the polling place, two teams of tellers are assigned to count

the machine votes. In this case, two total vote sheets are prepared and the machines are divided between the two sheets. At the top of one sheet BLOCK 1 is entered and BLOCK 2 is entered at the top of the other sheet.

The team completing the machine vote tally first then enters the absentee/challenged ballot results on its total vote sheet. When the other team has completed its machine vote tally, the first team enters the results in the row opposite MACH BLK # on its total vote sheet (10th row on sample on page 265). The grand totals are calculated by obtaining the sum of block 1 machine votes, block 2 machine votes and the absentee/challenged ballot votes. The sum is entered in the row opposite GRAND TOTALS as shown on the sample on page 265)

Using this method, the votes can be tabulated much more quickly than if 15 or 20 machines were tabulated on one total vote sheet. Since you will not know in advance which team will complete the machine count first, on the total vote sheet for block 1, enter MACH BLK 2 in the appropriate row. On the total vote sheet for block 2, enter MACH BLK 1 in the appropriate row. Regardless of which team completes the machine vote first, it can prepare the sheet containing the grand total.

f. tellers to sign total vote sheet

If election officers or tellers, other than the warden and election clerk, read and record votes on the total vote sheet, they should sign the sheet when it is completed.

g. completing the total vote sheet [Regs. 52.04(30)]

After the total vote sheet, or total sheet containing the grand total if two teams of tellers are used as outlined in e. above, has been completed and is correct, the warden and clerk should enter the date, precinct number if any, and the name of the town if this information has not already been entered.

h. election clerk's certificate [54:105]

The provisions of 54:105 with respect to the election clerk's certificate apply to voting machine towns as well as paper ballot towns. (see B. 15. e. on page 176)

i. warden and clerk to sign total vote sheet [Regs. 52.04(30)]

The warden and the clerk must both sign the total vote sheet.

7. Close, Lock and Seal Machines, Record Information [54:35B;
Regs. 52.04(33)]

After the machine vote is tabulated, the election officers shall lock and seal each voting machine. Enclose and seal the keys in an envelope on which shall be written the precinct number, if any and the location of the polling place, the number of the machine, the number on the machine seal and the number on the protective counter. [54:35B]

However, this work can be started before the machine vote tabulation is completed. The front of the machines can be closed and locked at any time after the last voter has registered his vote unless the seal is located inside the front door. If an inside seal, step c. below must be taken before the front doors are closed and locked.

In towns having printomatic machines, the work on the back of the machines can be started as soon as the packs and write-in paper have been removed from the machine.

In towns having non-printomatic machines, the work on the back of the machines can be started after the machine counters have been read and the write-in paper has been removed. However, since candidates are entitled to examine the machine counters, it may not be practical to begin closing and locking the machines at this time since the machine would have to be unlocked and the center rear door opened again upon request of a candidate. (see 8. Candidates May Examine Counters on page 199)

The procedures to be used are as follows:

a. close and lock front of machine [Regs. 52.04(33)(a)]

First, unplug the light cord and wind it on the hook inside the machine at the left. Check to be certain the cord or the write-in pencil does not hang below the bottom of the door.

Unsnap the curtains from the doors on both sides and drape them over the curtain bar. Lift up the bar to disengage it from the doors and lower it carefully. Adjust the curtains if necessary so they do not hang below the bottom of the doors.

Close the left door first and fasten it using the latch inside the edge of the door. Close the right door and fasten it. Then lock the front doors using key no. 3.

b. close and lock back of machine [Regs. 52.04(33)(a)]

For printomatic machines, place hand crank in the top rear compartment. Then close the top door and lock it using key no. 3.

For non-printomatic machines, close and lock the center door using the latch. Then close and lock the top rear door using key no. 3.

c. seal machines, record information [54:35B; Regs. 52.04(6), 52.04(33)(b)]

From the Package No. 7, obtain two gray envelopes, one marked 7-A containing the new metal seal and the other marked 7-C. Remove the seal from the 7-A envelope and enter the seal number on the 7-C envelope on the line after "The Machine is Sealed with Seal No." Also enter on the 7-C envelope on the appropriate lines, the machine number, the precinct number, if any, the location of the polling place, and the number registered on the protective counter.

Note: If the commercially available No. 7 package is not used, you will need to provide a separate machine seal. The information outlined above must be entered on the envelope in which the keys are returned to the town clerk.

It is suggested that two election officers of different parties work together, one reading the numbers and the other recording them on the envelope. Be certain that the correct numbers are recorded.

Then place the new seal on the machine being certain that it is fastened correctly. Push the small end all the way into the opening in the large end until it snaps. Then pull back on it to be certain the two ends cannot be separated. (see diagram on 7-A envelope for location of seal)

In some towns, the election clerk records the number on the protective counter and seal number for each machine in the election record although this is not required by the General Laws or the Regulations.

d. seal keys in 7-C envelope [Regs. 52.04(33)(c)]

The machine keys should then be sealed in the 7-C envelope or the equivalent envelope if the No. 7 package is not used. Return the envelope containing the keys and the envelope in which keys were kept during election day to the election clerk. (see XIX. C. 9. on page 231) The 7-A envelope from which the new machine seal was removed may

also be returned to the election clerk, but it is not required to be kept.

e. prepare machines for storage

After the machines are locked and sealed, they may be prepared for storage. Each machine should be cranked down using the hoist drill if available. However, the hoist drill should not be used in the polling place while votes are being read and recorded since the noise will interfere with the tellers. If a hoist drill is not available, the machines may be cranked down using a hand crank and this procedure is much quieter. To minimize the possibility of damage or tampering, the machines should be cranked down on election night even if a recount is expected and you do not plan to place them in the storage area until after the recount.

Note: In towns having non-printomatic machines, they should not be cranked down until after candidates or their representatives who wish to examine the counters have done so. (see 8. below)

f. remove machines from polling place

After they have been locked, sealed and cranked down, the machines can be moved out of the polling place into the hallway or lobby and placed in the storage area.

Note: In towns having non-printomatic machines, the machines should remain in the polling place until candidates or their representatives who wish to examine the counter have done so. (see 8. below)

8. Candidates May Examine Machine Count [54:35B; Regs. 52.04(11)]

A candidate for public office whose name appears on a voting machine, or his representative authorized in writing, shall, within one hour after the official vote for said office has been announced, be permitted to examine and check the vote recorded on that machine. Note that write-in candidates are not permitted to examine the vote recorded on the machine.

If the machines have printerpacks, the candidate or his representative, must examine the pack sheet rather than the machine counters. (see C. 2. c. on page 177) However, if the machines do not have printer packs, the candidates must be permitted to examine the candidate counters on the back of the machines.

If a candidate informs you before or during election day that he wishes to examine the machine count, give him the approximate time he or his representative should arrive at the polling place. For printomatic machines, permit him to examine a copy of the pack sheets outside the guard rails as soon as they are available. For non-printomatic machines, permit him to examine the candidate counters, as soon as the results have been announced since he should not be permitted within the guard rails until that time. (see 54:69)

Also, if the candidate wishes to examine the count in more than one polling place, ask him to appoint representatives in writing so that the examination can take place in all polling places at the same time or within a short period of time. In this case, the representative should present his written authorization to the warden when he arrives at the polls.

D. PROCEDURES - PUNCH CARD TOWNS

The procedures to be used in punch card towns for counting votes are specified in 53:39 and 54:105A (see 54:105, first sentence) and in the Regulations 54.04 and 55.00. Before the actual vote count can begin, some preliminary work must be done as follows:

1. Examine Each Ballot [53:39; 54:105A; Regs. 54.04(8),(10)]

After the ballots have been removed from the ballot box and, in a primary, separated by party [53:39], each ballot and its gray write-in envelope must be examined by two election officers of different parties. [54:105A; Regs.]

a. election officers check for write-in vote

Each gray write-in envelope must be examined to see if a write-in vote or other mark has been entered. If no write-in vote or other mark was entered, remove the ballot card from the envelope. Check the ballot for damage such as folds, torn corners, etc. and for incompletely punched holes. If any are found, place the ballot in a stack. Place all other ballots which have been separated from the gray envelopes in a second stack. If more than one Data-vote card was required for the ballot, the cards do not need to be separated; the A-B and C-D cards can be placed in the same stack.

If ballots are to be hand fed into the computer, they must be divided into convenient blocks before being counted and may be divided at this time. (see D. 3. e. count ballots on page 209)

Place the blank write-in envelopes in a third stack.

Note: If a ballot should be found containing invalidating marks, such as the voter's name (except on a challenged ballot), or his initials, place it back in the write-in envelope and keep it separate from all other ballots. [Regs. 54.04(9)]

If a write-in or any other mark has been entered on the envelope, leave the card inside the envelope and place it in a fourth stack. The election officers should not make a determination at this time as to whether or not a write-in vote is valid. (also see b. below for checking challenged ballots)

When all ballots have been examined, there should be four separate stacks, 1) voted ballot cards to be counted by computer, 2) blank write-in envelopes, 3) used gray write-in envelopes containing write-in votes or other marks with the ballot card still inside, 4) damaged and improperly punched cards. [Regs. 54.04(10)]

In primaries, there should be four separate stacks for each party. [53:39]

After completing the examination and sorting, the election officers should turn all ballots and gray write-in envelopes over to the warden and clerk.

b. election officers to check challenged ballots [Regs. 54.04(8)]

If a challenged ballot is found during the examination under a. above, the election officers should remove the card from its gray write-in envelope. Check to be certain that the correct notation, such as CV 1-1, CV 1-2, has been entered on both the card and on the envelope and in a primary, that D or R has been entered on the envelope. (see IX. D. CHALLENGED BALLOTS on page 80)

If the notation was omitted from the card or the envelope, or for a primary, if the party initial has been omitted from the envelope, the election officer should enter it using red ink. If the notation has been omitted from both the card and the write-in envelope, place the ballot card in the envelope and set it aside. The warden and the clerk should enter the notations.

If the proper notations have been entered, the card should be placed back in the envelope and put in the stack with used gray write-in envelopes containing cards. The

warden and clerk will process these cards further. (see c. (2) on page 204)

Note: While processing challenged ballots and write-in envelopes, the election officers should not check the ballot to determine how the person voted. If they should happen to see how the ballot was punched, they are prohibited from giving this information to anyone unless ordered by a court. (see IX. D. CHALLENGED BALLOTS on page 80)

c. warden and clerk to examine ballot materials [Regs. 54.04(11),(12),(13),(14),(15)]

The warden and clerk must examine the ballot materials. [Regs. 54.04(11)]

(1) write-in vote entered on envelope

- identification number [Regs. 54.04(12)]

Using red ink, an identification number shall be placed on each ballot card and gray envelope containing a write-in. The number must contain the precinct number, if any, and a sequential number. In a primary, the party name or initial shall also be written on the envelope.

Example: 1-1, 1-2, 1-3,... must be written on the card and the envelope. If a primary, D1-1, D1-2... R1-1, R1-2... must be entered on the envelope. A line is provided after WRITE-IN BALLOT NO. on the inside of the gray write-in envelope flap. On punch cards other than Datavote, enter the precinct number on the line after PRECINCT NO. and the ballot number on the line after WRITE-IN NO. at the bottom of the card. On a Datavote card enter the numbers at the top or the bottom where blank space is available. It is suggested that all election officers enter the numbers in the same place on all cards so the numbers can be easily found during a recount.

The identification number must remain on the ballot card and the write-in envelope so that it will be possible to match the two at a later date, if necessary, during a recount or a court proceeding.

Note: If a write-in over-vote is found OV and other information must be entered as well as the numbers. (see -- if over-vote is found below)

- compare card and envelope for over-vote [Regs. 54.04(13)]

The card and envelope must be compared to determine whether or not there is an over-vote. Look at the office for which the write-in vote was cast. Then, look at the card to determine if the voter also voted for a candidate under the same office.

If one person may be elected to the office, one hole punched on the card under that office would result in an over-vote. If more than one person may be elected, the number of holes punched on the card under that office equal to the number to be elected would result in an over-vote. The total number of write-in votes cast under an office plus the number of holes punched on the card under that office cannot equal more than the number to be elected.

Note: Even if it appears that the write-in vote entered on the envelope cannot be counted, an over-vote has occurred and the ballot should be hand counted as a blank under that office.

- if no over-vote [Regs. 54.04(15)]

If there is no over-vote, the card should be removed from the envelope and placed in the stack of cards to be counted by computer.

The gray write-in envelope should be placed in the manila write-in envelope provided with the election materials. (see PREPARING ELECTION MATERIALS, III. ENVELOPES, D. 2. in Volume 3 of this series)

Note: Write-in votes must be hand counted. In towns having a central tabulation center, the write-in votes may be counted in the precinct or at the center. In most towns, all votes are counted at the center. (see 54.04(17),(18))

- if over-vote found [Regs. 54.04(14)]

If there is an over-vote, the punch(es) on the card under the over-voted office should be circled in red using a soft point pen. Enter "over-vote for the office of [title]" on both the ballot card and on the gray write-in envelope. Add on both the card and envelope OV1-1, OV 1-2..., the first number identifying the precinct and the second the over-voted card number.

The card should be replaced in the gray write-in envelope. Place the gray envelope containing the card in the manila over-vote ballot envelope provided with the election materials. (see PREPARING ELECTION MATERIALS, III. ENVELOPES, D. 3. in Volume 3 of this series) On the form attached to the envelope, enter the card number, OV 1-1, OV 1-2 etc. and the office under which the over-vote was cast.

Note: Over-voted cards must be hand counted. The count will be made in the polling place if it has been designated as a tabulation center. If a central tabulation center has been designated, the over-voted cards may be counted by hand either in the polling place or in the central tabulation center. However, in most towns all ballots are counted at the central tabulation center.

(2) challenged ballots [Regs. 54.03(23)(a),(27)(g)]

The warden and clerk should examine challenged ballots to be certain that the correct notation, for example CV 1-1, has been entered on both the ballot card and the gray envelope. If the number is not on either, they should enter it using a number one larger than the largest number found on any other challenged ballots. (see IX. D. CHALLENGED BALLOTS on page 80)

The gray envelope should be examined for write-in votes. If found, examine the envelope and card to determine if an over-vote has occurred. If so, proceed as outlined in (1) above except that the write-in identification number does not need to be added since the notations for challenged ballots, including a card number, are already on the card and envelope. If there is no over-vote, place the ballot card in the stack of cards to be counted by computer.

If the gray envelope contains a write-in, place it in the manila write-in envelope with other gray envelopes to be hand counted.

If the gray envelope does not contain a write-in, place it in the manila envelope for challenged ballot gray write-in envelopes provided with the election materials. (see PREPARING ELECTION MATERIALS, III. ENVELOPES D. 4. in Volume 3 of this series)

Note: In some towns, the challenged ballot card and gray write-in envelope are kept together and are

counted by hand. Or, all the challenged punch card ballots are kept together and counted by computer at the end of the stack of cards. Then the punch cards are placed back in their related envelopes before being packed and sealed in the metal box. Using either of these procedures will expedite a recount since a hearing must be held on challenged ballots. (see AFTER ELECTION DAY, XI. RECOUNTS on page 339)

(3) damaged and improperly punched cards

Damaged and improperly punched cards should be placed in the manila envelope with the write-in over-voted cards since all these must be hand counted. 54:33H prohibits repunching computer rejected or damaged cards for insertion into the computer.

2. Transmit Ballots to Central Tabulation Center [54:105A; Regs. 54.04(18),(20); 55.07]

The following procedures apply only to towns having a central tabulation center.

a. pack materials in metal carrying case [54:105A; Regs. 54.04(18)]

The warden and clerk should pack the following materials, separated by party if a primary, in the metal carrying case:

- voted punch card ballots
- the manila envelope containing gray write-in envelopes on which write-in votes have been entered
- the write-in block tally sheet, if write-in votes were counted in the precinct
- the manila envelope containing over-voted ballot cards in their related gray write-in envelopes, and damaged and improperly punched ballot cards
- block tally sheets for over-voted or damaged cards, if counted in the precinct
- the manila envelope containing gray write-in envelopes for challenged ballots on which no write-in votes were entered
- the precinct total vote sheet, if votes were counted in the precinct
- the precinct clerk's report form
- unused punch card ballots (if room)

Note: If all votes are counted at the central tabulation center, tally and total vote sheets are not usually sent to the precinct polling places.

Note: In some towns, the small stubs stapled in blocks of 50 from which punch card ballots were separated at the check-in table are also packed in the metal carrying case for transportation to the central tabulation center.

- b. lock and seal metal carrying case [54:105A; Regs. 54.04(20)]

The metal carrying case must be locked in the presence of the warden and the clerk. The warden must retain possession of the key. The box should be sealed using a gummed cloth or self-stick paper seal, or with the green plastic seal. Attach the label listing the contents. (see PREPARING ELECTION MATERIALS, VI. MISCELLANEOUS, A. 3. in Volume 3 of this series)

- c. transport metal case to tabulation center [54:105A; Regs. 54.04(22), 55.07]

Some of the procedures required for transporting the metal case to the central tabulation center will depend upon whether or not the center is located within the town as follows:

- tabulation center within town [54:105A; Regs. 55.07(1)]

If located within the community, the metal case must be transported to a central tabulation center accompanied by the warden, the election clerk and a police officer, who shall exercise constant control and supervision over the locked metal case.

- tabulation center outside the town [54:105A; Regs. 55.07(2)]

If the tabulation center is located outside of the town, the metal case must be transported to the town clerk's office accompanied by the warden, the election clerk and a police officer, who shall exercise constant control and supervision over the locked metal case. The warden must transfer possession of the key to the town clerk.

After all metal cases have arrived at the town clerk's office, they must be loaded, in full public view, into vehicles designated by the town clerk and owned by the town. Then they are transported to the central tabulation center. The vehicle transporting the metal cases must be accompanied by the town clerk or his designee and a police escort. Usually a police

cruiser is used to transport the cases and, in that case, a separate police escort is not required.

At the tabulation center, the vehicles must be unloaded in the presence of the election officers.

- metal case not to be opened [54:105A; Regs. 55.07(2)]

The metal cases must not be opened at any time during transportation to the central tabulation center.

d. penalties [56:49]

The penalty on whoever wilfully obstructs or interferes with the transmission of ballots to a central counting place is a fine of not more than \$500.00 or imprisonment for not more than 1 year.

3. Procedures at the Tabulation Center

The following procedures are to be used at the tabulation center whether it is at the polling place or in a central location, except as noted below.

a. personnel [54:33H; Regs. 55.04]

- presiding officer

If the tabulation center is located in a precinct polling place, the precinct warden is the presiding officer. However, the town clerk is the presiding officer of a central tabulation center. [Regs. 55.04] 54:33H provides that the warden is the presiding officer at the tabulation center but does not make any distinction between a precinct and a central tabulation center.

- election officers [54:33H; Regs. 55.04]

The tabulation center must be staffed by a warden, a clerk and as many inspectors as the town clerk determines necessary. The warden and clerk must be of different political parties and the inspectors must be equally divided among the two parties. (see ELECTION OFFICERS in Volume 3 of this series)

The presiding officer shall assign the election officers any duties that will assure compliance with the General Laws and the Regulations. All tabulation center personnel must be adequately trained in advance in the use of equipment which they will operate.

b. observers [Regs. 55.06] (also see XI. OBSERVERS on page 122)

The chairman of each political town committee may appoint a computer expert to observe the proceedings at the tabulation center. The appointment must be made in writing and the observer should present his appointment to the presiding officer when he arrives at the center.

Observers authorized by candidates at the election may observe the proceedings at the tabulation center as space permits.

These observers must remain outside the barriers and should not be permitted to interfere in any way, either by excessive noise or crowding, with the election officers working at the tabulation center.

c. barriers [Regs. 55.03]

The tabulation center must have a barrier of some sort to enclose the counting area so that no unauthorized persons may touch any election materials or be in the counting area at any time.

In a precinct tabulation center, the guard rails in place during election day would serve as the barrier required by Regs. 55.03. In a central tabulation center, barriers may consist of a row of tables, chairs, or ropes, etc. and should be placed before the metal cases arrive at the center. (see POLLING PLACES in Volume 3 of this series)

d. inspect ballot cards [Regs. 55.08, 55.09]

- remove damaged or improperly punched cards

An inspection team shall examine the punch cards to be certain they are in proper condition to be tabulated by the computer. Cards which cannot be tabulated by computer must be removed. [Regs. 55.08(1),(2)]

Damaged or improperly punched cards, or cards rejected by the computer during count (see e. 1. below) should be placed in the manila envelope containing write-in over-voted cards. At primaries, these cards must be placed in a separate envelope for each party. [Regs. 55.09(1)]

If the precinct polling place is the tabulation center, the inspection would be done by the warden and clerk. (see D. 1. c. on page 202) If there is a central

tabulation center, the inspection would be done at the center to remove any damaged or improperly punched cards not removed at the polling place before being transported to the center.

- riffle cards to remove chads

The inspection team must also riffle or fan the cards to remove any loose or hanging chads. [Regs. 55.08(2)] Note that it is unlikely that there would be any loose or hanging chads on Datavote cards. However, the cards should be riffled anyway to prevent them from sticking together and causing a computer problem.

Note: If a chad does not come off when cards are riffled, the computer may reject the card. In that case, the card should be hand counted.

- primaries [53:39; Regs. 55.08(3)]

In a primary, the inspection team must make certain that there is a separate group of cards for each party. The inspection team may be two election officers of different parties. They shall check the cards in each group to make certain all cards in the group are in the same political party. If the cards are a different color for each party, the group can be checked easily when the cards are riffled since a card of a different color will be easy to find. However, if the cards are all the same color and a different colored stripe is used for each party, neatly stack a group 100 or so cards, hold the stack up to the light and check the party punch at the bottom. If light shows through the punch, all cards are the same party. If not, one or more cards of a different party are in the stack and will need to be removed.

Note: If the cards are hand fed into the computer, a card of the wrong party will be noticed at that time and can be removed.

In any event, if cards are mixed by party in error, the computer will sort them out so that a separate count of each party is obtained.

- e. count ballots [Regs. 55.08(1)]

Whether ballots are counted by computer or by hand, each precinct must be counted separately unless in a primary, precincts are grouped. [Regs. 55.08(1)] In a primary, each party in each precinct must be counted separately.

(1) count by computer

- test computer program [Regs. 55.05(2)]

Before any ballot cards are put into the computer for counting, the program must be tested using the test deck prepared and used prior to the election. (see Chapter 3, III. EQUIPMENT, L. ELECTRONIC VOTING SYSTEMS in Volume 3 of this series) Compare the results shown on the printout with the test deck tally sheet. If the results are the same, the program is operating correctly. If not, the program or the computer will need to be adjusted.

Enter on the computer printout "Test, [hour, date, precinct number]" to be certain that it does not become confused with the printout of counted ballots or the printout of the test conducted before the election. The warden and clerk may sign the test printout. In some towns, the town clerk adds a note such as "This test was observed by the warden, clerk [others, if any]" and then signs the printout.

- feed cards into computer [Regs. 55.08(6)]

Cards should be fed into the computer by whatever method is appropriate for the equipment being used.

However, where ballot cards are fed into a computer one by one by hand, they must first be separated into convenient blocks, usually containing 50 cards. One election officer must feed the cards into the computer while the other watches the printout tape for a "read error." The election officers should also listen for a "beep" indicating a read error. In addition, a stacker tray must be used to receive the ballots counted by the computer so that a card causing a problem can be identified and removed. The card can be put through the computer again, but if it causes a problem a second time, it must be hand counted.

- test computer program [Regs. 55.05(2)]

Immediately after the ballots have been counted, the computer program must be tested again. Enter on the computer printout "Test, [hour, date, precinct number]" and add notes as outlined above for the test to be conducted before the count.

- warden and clerk to sign vote count computer printout [Regs. 55.08(5)]

If the precinct polling place is the tabulation center, the precinct warden and clerk must sign the computer printout containing the vote count. If there is a central tabulation center, the warden and clerk at the center must sign the printout for each precinct. In a primary, they must sign the printout of each party for each precinct.

In some towns, the precinct warden and clerk remain at the central tabulation center until the precinct count is completed and they also sign the precinct computer printout.

Note: For towns without precincts, or voting by grouped precincts in a primary, there will be one computer printout for the town or for each party to be signed by the warden and clerk.

(2) count by hand

- write-in votes [Regs. 54.04(16),(17)]

If the precinct polling place is the tabulation center, write-in votes must be counted in the precinct. If there is a central tabulation center, write-in votes may be counted in the polling place or at the center. In most towns having a central tabulation center, all write-in votes are counted at the center.

In either case, the manila envelope containing the gray envelopes having write-in votes should be given to a team of two election officers of different parties for counting. Remove the gray envelopes from the manila envelope. One election officer should open each gray envelope and first read the office title entered, then the name and address written in.

The write-in vote should be entered on a sticker placed in the space provided inside the gray envelope. However, voters sometimes enter the write-in or place the sticker on the outside of the envelope or on the side. These votes should be counted if otherwise valid. Note that the office title must be entered as well as candidate's name and address. If two are to be elected to an office and the voter uses ditto marks for the second entry under the office title, the vote can be counted if otherwise

valid and if the intent of the voter can be determined.

Note: Even though the instructions direct the voter to enter write-in votes on the gray envelope, a write-in or sticker found on a Datavote ballot card should be counted if the intent of the voter can be determined. Such a ballot would have to be counted by hand since the computer would probably reject it.

The other election officer should record the vote on a block tally sheet. (see PREPARING ELECTION MATERIALS, II. TALLY SHEETS, C. 1. b. in Volume 3 of this series) If necessary, more than one block tally sheet may be used. (see B. 10. on page 170 for information on recording write-in votes on a block tally sheet)

If a gray write-in envelope contains a vote which cannot be counted since the voter's intent cannot be determined, no entries should be made on the block tally sheet or on the envelope. The envelope should simply be placed with the other envelopes already examined.

For guidelines on determining whether or not a write-in vote is valid and should be counted, see XVI. A. 6. on page 153.

When all gray envelopes have been read and the votes recorded, the total number of votes for each candidate should be calculated and entered on the block tally sheet.

The gray envelopes should be placed back into the manila envelope and the total number of gray envelopes entered on the outside. Both election officers should sign the block tally sheet and the manila envelope.

Note: The gray write-in envelopes related to challenged ballots may be sorted out at this time so that the challenged ballot card may be placed in the envelope after it has been counted. This procedure will expedite a recount since a hearing must be held on challenged ballots. (see AFTER ELECTION DAY, XI. RECOUNTS on page 339)

The manila envelope and tally sheet should then be turned over to the precinct or tabulation center clerk.

- over-voted, damaged and computer rejected cards [54:105A; Regs. 55.08(4), 55.09(2)]

If the precinct polling place is the tabulation center, over-voted, damaged and computer rejected cards should be counted by hand in the precinct. In towns having a central tabulation center, these cards are hand counted at the center.

Note: 54:105A requires that over-voted cards shall be counted by hand in the precinct. However, the Regulations, 54.04(14) provide that the over-voted cards may be counted in the precinct or at the central tabulation center. Since computer rejected cards should be hand counted along with the over-voted and damaged cards, all these cards are usually counted at a central tabulation center in towns having such a center.

In either case, the manila envelope containing over-voted, damaged and computer rejected cards should be given to a team of two election officers of different parties. They should also be given a block tally sheet on which REJECTED CARDS has been entered at the top. (see PREPARING ELECTION MATERIALS, II. TALLY SHEETS, C. 1. in Volume 3 of this series) Note that for punch cards other than Datavote, the candidate's number should be entered on the block tally sheet next to his name. Also, the numbers should be entered on the tally sheet next to YES and NO for ballot questions.

One election officer should read the ballot card and the other should record the votes on the tally sheet the same as outlined for paper ballots under B. 7. and 8. on pages 164 and 165 except that, unless Datavote ballot cards are used, the reader must state the number of the hole punched instead of the candidate's name. The recorder should record one vote on the tally sheet in the appropriate column opposite the candidate having that number next to his name. If Datavote ballot cards are used, the candidate's name is read. In either case, under the over-voted office, the appropriate number of blanks should be recorded on the tally sheet, one blank if one person is to be elected, two blanks if two are to be elected, etc.

After all cards have been read and the votes recorded, the cards should be placed back in the manila envelope. The election officers should enter the number of cards on the outside and sign

it. They should also sign the block tally sheet. The envelope and tally sheet should then be turned over to the precinct or tabulation center clerk. [Regs. 55.09(4)]

Note: If there are only one or two over-voted, damaged or computer rejected cards, the votes can be entered directly on the total vote sheet and the block tally sheet is not needed.

4. Total Vote Sheet [54:33H,105A; Regs. 55.10] (see samples on pages 271 and 272)

Note: In towns voting by precincts, the total vote sheet referred to in this section is the precinct total vote sheet. In towns without precincts or voting by grouped precincts, the total vote sheet referred to in this section is the same as the town total vote sheet. (see XXIII. TOWN TOTAL VOTE SHEET on page 240)

The total vote sheet must contain the same information as required on a total vote sheet for a paper ballot town. [54:33H; Regs. 55.10(1)] (see B. 15. on page 173) Form E-231A may be used. In towns voting by precinct, a precinct total vote sheet must be completed regardless of whether the precinct polling place is a tabulation center or there is a central tabulation center. A separate sheet must be completed for each party in a primary.

Note: 54:105A and Regs. 55.10(1) require that the votes on paper absentee ballots counted at the polling place must be added to the total vote sheet. This requirement is now obsolete since absentee ballots are required by Regs. 54.03(27) to be computer cards and are counted by computer along with the punch card ballots used at the polling place on election day.

When preparing the total vote sheet, one election officer should read from the computer printout and block tally sheets and another election officer should record the votes on the total vote sheet being certain to enter the votes in the correct columns or rows, depending upon the format used.

a. record results shown on computer printout [54:33H; Regs. 55.10(1)]

The results shown on the computer printout should be transferred to the total vote sheet. Then the printout, signed by the warden and clerk, should be attached to the sheet.

- b. record results shown on write-in tally sheet [54:33H, 105A; Regs. 55.10(1)]

The results as shown on the write-in block tally sheet must be entered on the total vote sheet. The write-in candidate's names must be entered in the appropriate column or row, depending upon the format used.

- c. record results shown on "rejected" tally sheet (over-voted, damaged and computer rejected cards) [54:33H, 105A; Regs. 55.09(3), 55.10(1)]

The results shown on the block tally sheet used to record over-voted, damaged and computer rejected cards should be entered on the total vote sheet.

Example: Four ballot cards were hand counted. John L. Smith received 3 votes for moderator and one ballot was blank under that office. Frank R. Jones received 2 votes for selectman and Alice Baker received 2 votes for selectman. In the box for hand count under moderator, enter 3 for Smith and one blank; under selectman enter 2 for Jones and 2 for Baker.

- d. adjust blanks shown on computer printout

The blanks shown on the computer printout under each office will need to be adjusted before the total votes are calculated and entered on the total vote sheet if one of the following applies:

- votes are recorded on the write-in tally sheet for one or more write-in candidates for that office.

Example: Under the office of assessor, 200 blanks are shown on the computer printout since no candidate's name appeared on the ballot. John J. Jones received 100 write-in votes and these votes would be recorded on the total vote sheet opposite his name. Frank R. Smith received 50 write-in votes and these would be recorded opposite his name. The number of blanks recorded on the total vote sheet under computer count should be adjusted by crossing out 200 and entering 50. Do not erase the number originally entered.

- In Datavote towns when more than one card is required for the ballot, occasionally a voter at the polls casts or an absentee voter returns fewer than the required number of punch cards since he did not cast any votes on one or more cards. The appropriate number of blanks must be recorded on the total sheet

under every office which appeared on the card(s) not deposited. [Regs. 55.10(1)(e)]

Example: In a presidential primary, card C-D containing town committee candidates was not deposited in the ballot box. Under this office, 10 persons were permitted to be elected. 10 blanks should be added on the total sheet under town committee.

Note: In some towns, adjustments are made on a work sheet instead of on the total vote sheet and the corrected numbers are then transferred to the total sheet. In this case, attach the work sheet to the total vote sheet. (see PREPARING ELECTION MATERIALS, II. TALLY SHEETS in Volume 3 of this series) In some towns, the adjustments are made on the computer printout before the numbers are entered on the total vote sheet. In this case, draw a line through the number to be adjusted, enter the correct number next to it and initial the correction on the computer printout. Be certain that the original number can still be read.

e. calculate totals

The total number of votes for each candidate and the total number of blanks must be calculated and recorded on the total vote sheet. The total for each candidate whose name appears on the ballot equals the sum of the votes counted by computer and the votes counted by hand. For each write-in candidate, the total vote is the same as that appearing on the write-in tally sheet. The total number of blanks under each office is the sum of the blanks shown on the computer printout, adjusted for write-in votes cast or for ballot cards not deposited in the ballot box, and the blanks from punch card ballots counted by hand.

Note: In towns having a central tabulation center and voting by precincts, a town total may be obtained by computer for computer counted punch cards. Such a town total would need to be adjusted to include the write-in votes and hand counted cards. In addition, the blanks shown on the computer printout would need to be adjusted, if necessary. (see XXIII. TOWN TOTAL VOTE SHEET on page 240)

f. balance total vote sheet

After all totals have been recorded on the total vote sheet, it should be balanced to be certain that the numbers recorded are correct. (see B. 15. c. on page 175)

g. election clerk's certificate

While not specifically required by 54:33H or 54:105A or by the Regulations, it is suggested that a clerk's certificate be entered on the total vote sheet. (see B. 15. e on page 176. See also PREPARING ELECTION MATERIALS, II. TALLY SHEETS, A. 2. in Volume 3 of this series) 54:33H does require that the number of names marked on the voting list and the total number of ballots cast be shown on the total vote sheet in addition to the number of votes for candidates and questions and the number of blanks, etc.

h. warden and clerk to sign total vote sheets [54:33H, 105A; Regs. 55.10(2)]

If the precinct polling place is the tabulation center, the precinct warden and clerk must sign the total vote sheet.

If there is a central tabulation center, the tabulation center warden and clerk must sign each total vote sheet. If the precinct warden and clerk are at the tabulation center, they also sign the total vote sheet for their precinct. In some towns, the town clerk also signs the total vote sheet(s).

Note: Regs. 55.10(2) requires that the warden and clerk sign any block or total paper absentee ballot tally sheet. This is no longer required since there are no paper absentee ballots.

E. PENALTIES [54:27; 56:12,50,52,55]

Election officers and others are subject to the following penalties:

- for wilfully or maliciously injuring or tampering with any tally sheets; a fine of not more than \$500.00 or imprisonment for not more than 1 year. [54:27]

- for knowingly making a false count of ballots or wilfully altering, defacing or destroying a ballot cast at a primary; a fine of not more than \$500.00 or imprisonment for not more than 6 months. [56:12]

- for wilfully destroying or defacing a ballot; a fine of not more than \$100.00 or imprisonment for not more than 1 year. [56:52]

- for altering, with intent to defraud, a ballot cast in any primary or election; imprisonment for not more than 2 1/2 years. [56:50,55]

XVII. ANNOUNCE ELECTION RESULTS

A. WHEN RESULTS ARE ANNOUNCED [54:33H, 105; Regs. 51.04(24), 52.04(34), 55.10(1)]

The results should be announced as soon as possible after the total vote sheets have been completed. However, first be certain that the votes have been accurately recorded and that the sheets have been balanced. [54:105; Regs. 51.04(24), 52.04(34)] In a punch card town having a central tabulation center, the results for each precinct must be publicly announced as soon as the precinct total vote sheet has been completed. [54:33H; Regs. 55.10(1)]

Note: In voting machine towns, total vote sheets are not balanced unless the blanks for each machine are entered on them.

However, the precinct clerk or the town clerk if there are no precincts may, if authorized by the election commission, if any, or the town clerk, publicly announce the number of votes cast for each candidate for each office as soon as the count of ballots for that office has been completed and the number of yes or no votes for each question as soon as the count on each question is completed. [54:105] In most towns, this provision of the General Laws is not used since the Regulations require that the tellers count a paper ballot in its entirety before proceeding to the next ballot. [Regs. 51.04(10), 52.04(17)] In voting machine towns, not only does 54:35B require that the votes be read from a machine in the order as offices are arranged on it, but it is also impractical to read and record the votes cast for one office on all voting machines, then read and record the votes cast on all machines for the next office. In punch card towns, it is impractical to have the computer count the ballots for one office, produce a printout only for that office, and then count the next office.

Note: In some towns, the hour when the results were announced is entered on the total vote sheet so that it can be included in the permanent election record. Also, if the total vote sheet was prepared by a teller team, this information may indicate what teller team is particularly efficient and should be assigned to work on a total sheet at a future election.

B. WHO MAY ANNOUNCE RESULTS [54:33H, 105; Regs. 51.04(24), 52.04(34), 55.10(1)]

1. Towns Without Precincts

In many towns without precincts the town clerk is usually at the polling place during the vote count and he announces the results. However, the warden or the election clerk may make the announcement.

2. Towns With Precincts

In towns voting by precincts, either the precinct warden or precinct clerk may make the announcement. [Regs. 51.04(24)] However, if the precincts have been grouped for a primary, the warden, election clerk or the town clerk, if at the polling place, may do so.

In punch card towns, the presiding officer at the tabulation center, or whatever election officer he designates, shall make the announcement. If the precinct polling place is the tabulation center, the precinct warden would make the announcement or designate someone to do so. At a central tabulation center, the town clerk would announce the results or designate someone to do so. Note that the announcement is to be made in the presence of the other election officers. [54:33H; Regs. 55.10(1)]

C. ANNOUNCE LOUDLY AND CLEARLY

The announcement should be made loudly and clearly so that all observers in the polling place can easily hear it. In addition, office titles, candidate's names and the number of votes should be stated slowly enough so that the observers will be able to record them. Stating these too quickly or not loudly enough will generate many requests for their being repeated. It is suggested that numbers be stated as follows: for 1,420, state "one, four, two, zero" since that form is usually the easiest to hear and record correctly.

Forms for recording the results prepared by the town clerk or extra specimen ballots are sometimes distributed to observers at the polls just before the announcement is made. In punch card towns, extra absentee ballot pamphlets may be given out to observers. This helps to reduce the number of requests for having results repeated. (see PREPARING ELECTION MATERIALS, VI. MISCELLANEOUS, B. 7. in Volume 3 of this series)

D. INFORMATION TO BE ANNOUNCED

Some information must be announced and additional optional information is announced in many towns as follows:

1. Required [54:33H,105; Regs. 55.10(1)]

Regardless of the type of voting system used, the total number of votes for each candidate under each office must be announced. Unless recorded only under scattering, the number of votes cast for each write-in candidate must also be announced. The total number of YES and NO votes under each question, if any, must also be announced.

First read from the total vote sheet, the title of the office. Then read each candidate's name and the number of votes he received in the order in which the names appear on the ballot, followed by the names and number of votes for write-in candidates, if any, under that office. In many towns, the write-in candidates are identified as such in the announcement. For example, "John J. Jones, write-in, 49" is stated.

After all offices and candidates have been announced, the questions should be announced. First read from the total vote sheet the question number. Then read YES and the number of votes, NO and the number of votes.

In a primary, the results of each party primary must be announced separately. Complete the announcement for one party before announcing the results for the other. The order in which the parties should be announced is not specified in the General Laws or in the Regulations. In some towns, the parties are announced in alphabetical order, Democrats first. In other towns, the party results are announced in the order in which the total vote sheets are completed.

Note: In punch card towns, 54:105A specifically prohibits a public announcement at the polling place of the vote cast on absentee ballots or on over-voted ballots. In other towns, no separate public announcement of the vote cast on absentee ballots should be made. However, in voting machine towns, the total votes cast on absentee and challenged ballots must be recorded separately on the total vote sheets and this information is a public record. In punch card towns, the hand counted ballots are recorded separately on the total vote sheet and this information is a public record.

2. Optional

Information, in addition to that required, may be announced and the specific information varies among towns depending upon custom and the preference of the town clerk.

a. total number of ballots cast

The total number of ballots cast in the election is usually announced since candidates and media representatives often ask for this information. Usually the total votes cast is announced before any votes for candidates and questions and not repeated unless specifically requested by an observer.

b. total number of registered voters

The total number of registered voters in the precinct or in the town as of the close of registration prior to the election is announced since this number is needed to calculate the percent voter turnout and is often requested. The total number of ballots cast as a percent of the total number of voters (percent turnout) is sometimes calculated by the town clerk or warden and announced.

c. number of blanks

The number of blanks under each office may be announced before proceeding to announce the candidates and votes under the next office.

d. other

If not already announced at the time they were counted or recorded, the number registered on the ballot box, the number of names marked on the voting list and the number of unused ballots may be announced at this time. (see XV. C. 1. and 2. on pages 141-147 and D. 1. on page 148)

XVIII. REPORT TO STATE SECRETARY BY TELEPHONE OR TELEGRAPH

[54:105]

For state elections, only 54:105 provides that as soon as the count is completed the town clerk or his designee in each precinct must immediately transmit to such central tabulation facility as the state secretary designates, the votes cast, by precincts or by polling places, for candidates for offices to be voted for by all the voters of the Commonwealth and for congressman. The information is to be transmitted by telephone or by telegraph. This return shall be considered unofficial and shall be in addition to returns required under Chapter 54. (see 54:110A and AFTER ELECTION DAY, VI. ELECTION RETURNS TO BE TRANSMITTED on page 300)

However, the state secretary has not used this provision of the General Laws since it would duplicate the function performed by News Election Service.

For the past several years, by agreement between the Massachusetts Town Clerks Association and News Election Service, town clerks have been requested to telephone election results to Boston and to New York on the night of the state primaries and elections and the presidential primaries after the votes have been tabulated. Information on the agreement and procedures is regularly given out at Association meetings during state election years and forms with instructions are provided by NES.

XIX. PACKING AND SEALING ELECTION MATERIAL

All official election material must be publicly packed and sealed in labelled envelopes or containers for return to the town clerk. Packing can start while the total votes are being calculated and entered on the total vote sheet. However, packing cannot be completed and envelopes or containers should not be sealed until after the total vote sheets have been completed and balanced. [54:107]

In most towns, fibreboard boxes are used as containers. In punch card towns, a metal carrying case which can be locked must be used for punch card ballots and a fibreboard box is used for other official election materials. (see Regs. 54.04(18) and (19))

Some election material must be sealed in a labelled envelope before being placed in a fibreboard box. Other material must be sealed in a labelled envelope and returned to the town clerk outside of the fibreboard box.

In each case when an envelope is used, the flap should be moistened and closed. Then a seal, containing the name of the town, the date of the election and the warden's and clerk's signatures should be placed over the flap so that the envelope cannot be opened without tearing the seal.

The information required for identification and the certificate of contents signed by the warden and clerk should be entered on the outside front of the envelope. In a primary, if the material must be sealed separately by party, the party name or initial should be entered on the outside of the envelope.

Note: Block envelopes containing counted paper ballots must be signed by the tellers instead of the warden and clerk but the warden and clerk should sign the seal placed over the envelope flap.

The type of envelopes and labels vary among towns. The seals may be of material used in such manner as to effectively lock the envelope or container or the container may be tied lengthwise and crosswise with heavy twine securely tied and the knot sealed with stationer's wax. [54:107] (see B. 1. on page 225 for sealing counted ballots in block envelopes) (see PREPARING ELECTION MATERIAL, III. ENVELOPES,

VI. MISCELLANEOUS, A. 3. Seals and, A. 5. Labels in Volume 3 of this series)

In most towns, materials are packed, sealed and labelled by the warden and election clerk or by the warden and town clerk. In some towns, a check list is provided to the warden to help ensure that all materials are sealed in their proper envelopes or boxes. (see PREPARING ELECTION MATERIALS, VI. MISCELLANEOUS, B. 3. f. in Volume 3 of this series)

Note: Regs. 51.04(32), 52.04(36) and 54.04(21) specify that the election officers shall not throw anything away.

A. ALL TOWNS

1. Voting Lists [54:107; Regs. 51.04(5), 52.04(8), 54.04(4), (19), 55.11]

The presiding officer shall cause the voting list to be enclosed in an envelope and sealed. The warden and clerk shall certify thereon to the identity of the voting list enclosed.

In punch card and paper ballot towns, both the check-in and the check-out voting list should be enclosed in the envelope. In voting machine towns, only the check-in list is enclosed since there is no check-out list. All supplementary lists, the list of nonregistered specially qualified voters, and all certificates, such as warden's, listing error, supplementary registration, error in party enrollment and those issued to absentee voters, should be enclosed in the envelope with the main voting list(s).

Since it is likely that the voting list envelope will have to be opened soon after the election to provide copies, etc., in most towns, the voting list envelope is not placed in a fibreboard box but is returned to the town clerk separately. [Regs. 51.04(5), 52.04(8), 54.04(4)] However, in punch card towns, Regs. 54.04(19) provide that the voting list be returned in a fibreboard box. In any event, the voting list should not be sealed inside the metal carrying case containing counted punch card ballots. [Regs. 55.11]

2. Tally Sheets [54:35B,105; Regs. 51.04(31), 52.04(31), 55.10(2), 55.11(2)]

a. block tally sheets

In most paper ballot towns, each block tally sheet is sealed in the block envelope with the counted ballots to which it relates. (see B. 1. on page 225) However, this is not specifically required by the General Laws or the Regulations.

In voting machine towns, the block tally sheet for absentee and challenged ballots may be sealed in the block envelope with the ballots or it may be sealed in the envelope with the total vote sheet. The block tally sheet for write-in votes, if used, is usually sealed with the total vote sheet. (see b. below)

In punch card towns, the write-in block tally sheet may be sealed in the manila envelope with the counted gray write-in envelopes and then in the metal carrying case, or it may be sealed with the total vote sheet. The block tally sheet used for recording votes on over-voted, damaged or computer rejected cards, may be sealed in the envelope with those cards, or in the envelope with the total vote sheet. In many punch card towns, all block tally sheets are sealed with the total vote sheet.

b. total vote sheet

The total vote sheet must be enclosed and sealed in an envelope. In primaries, the total sheets for both parties are sealed in the same envelope.

In punch card towns, the signed computer printout of counted ballots must be attached to the total sheet before it is sealed in the envelope. If there is a central tabulation center, the signed computer printout for each precinct must be attached to the related precinct total vote sheet. All sheets are then sealed in the same envelope. The computer printouts for the before and after count test may be sealed in the envelope with the total vote sheet or in the metal carrying case.

The envelope containing the total vote sheet(s) should not be sealed in a fibreboard box or the metal carrying case, but returned to the town clerk separately.

Note: In punch card towns, the precinct total vote sheet is sealed in the metal carrying case if it is being sent from the polling place to a central tabulation center.

3. Escrow Ballots [51:59A, Regs. 51.04(5A), 52.04(11A), 54.04(4A)]

After the number of escrow ballots has been counted and that number entered on the outside, the ballots must be sealed in the manila escrow ballot envelope. A separate envelope must be used for each party in a primary. It is suggested that both the warden and the election clerk sign the envelope(s) on the outside.

If the number of escrow ballots enclosed may change the results of the election, the envelope may be returned outside the fibreboard box so that the box will not need to be opened to permit the registrars to examine the ballots and count the votes on those deposited by persons determined to be entitled to vote. (see 51:59A)

If, however, the number of escrow ballots cannot change the results of the election, seal the escrow ballot envelope in a fibreboard box for return to the town clerk.

4. Election Clerk's Record

The election clerk should check the election record book to be certain that all required information has been entered and that he has certified and signed the record.

In some towns, a separate manila envelope is provided in which to seal the election clerk's record for return to the town clerk. In other towns, the election clerk's record is sealed in the tally sheet envelope. In this case, the certificate of contents on the envelope should indicate that both the tally sheet(s) and the election clerk's record are enclosed.

In any case, the clerk's record should not be enclosed in the fibreboard box but returned separately.

5. Payroll Records or Time Sheets

The payroll records or time sheets should be checked to be sure they have been completed and signed by each election officer.

In some towns, the payroll records or time sheets for election officers are included as part of the election clerk's record and are returned as outlined in 4. above. In other towns, these records or sheets are returned in a separate envelope, in the tally sheet envelope or in the box with miscellaneous unofficial election material. (see B. 4. on page 228) In any case, they should not be sealed in a box with counted ballots or in the envelope with the voting list.

B. PAPER BALLOT TOWNS

1. Counted Ballots [54:107; Regs. 51.04(28),(29),(30)]

The counted blocks of ballots, including absentee ballots, will be returned to the election clerk by the tellers in the related block envelope. The clerk should be certain that the tellers have signed each block envelope and tally sheet and the total vote sheet has been completed and balanced. Then

each block envelope flap should be sealed and an election seal placed over the flap. In some towns, the block tally sheet is also sealed in the envelope with the counted ballots.

After all block envelopes containing counted ballots are sealed, they should be placed in a fibreboard box. [Regs. 51.04(28)] Do not place any other election material in this box. Close the box and fasten the straps. Attach the label or tag containing the information required for identification, the certificate that all ballots cast are contained in the box, and the signatures of both the warden and the election clerk. [Regs. 51.04(30)]

The fibreboard box should be sealed using the gummed cloth or self-stick paper seals on which the name of the town, precinct number, if any, the date of the election and the warden's and clerk's signatures have been entered. Place at least one seal over each strap so that the strap cannot be moved without tearing the seal. Any election officer on duty at the polling place may add his private seal to the box if he wishes. [Regs. 51.04(29)]

Note: 54:107 requires that the seals used for counted ballots be of a durable material other than paper. If a gummed cloth seal is used on the block envelopes, self-stick paper seals may be used on the fibreboard box in which the envelopes are packed. Or, you may use self-stick seals on the block envelopes and place one gummed cloth seal on the box along with several self-stick paper seals. Either procedure will permit strict compliance with the provisions of 54:107 and provide proper sealing. The paper seals do not tend to dry out and lift up after a few days as do the gummed cloth seals.

In primaries, the counted ballots may be sealed in two boxes, one for Democratic ballots and the other for Republican ballots. However, ballots for both parties may be sealed in the same box since they must be sealed separately by parties in the block envelopes before they are placed in the box. (see 53:39)

2. Unused Ballots

The unused ballots may be packed into the box in which they were received, into a separate fibreboard box or in the fibreboard box with other official election materials. (see 3. below)

In any case, the box should be sealed and labelled. If the cardboard box in which ballots were received is used, it may need to be tied with twine and at least one seal should be placed over the twine. If a fibreboard box is used, it should

be sealed the same as the box containing counted ballots except that a cloth seal is not required.

3. Other Official Election Material [54:107; Regs. 51.04 (27),(32)]

The following official election material should be packed in a fibreboard box or a fibreboard box marked with the appropriate party initial, if a separate box is used for each party:

a. unused ballots (see B. 2. above)

b. spoiled ballots

After the number of spoiled ballots has been counted and the number entered on the outside of the envelope, the envelope must be sealed. A separate envelope should be used for each party in a primary.

The sealed spoiled ballot envelope should then be packed in the fibreboard box.

c. escrow ballots (see A. 3 on page 224)

d. absentee ballot envelopes and applications

The return and inner envelopes in which the absentee ballots were received at the polls should be packed in the fibreboard box along with the absentee ballot applications. In some towns, these are first sealed in a manila envelope. In other towns, they are kept together with an elastic. In primaries, they should first be separated by party.

It is suggested that the return and inner envelope and the application related to a given ballot be kept together. This will expedite an examination of ballot envelopes and applications during a recount. (see AFTER ELECTION DAY, XI. RECOUNTS on page 339)

Note: The return and inner envelopes referred to above are those related to counted absentee ballots. Rejected absentee ballots, if sent to the polls, should not be removed from the return envelope and should be kept separate. (see g. below)

e. list of applicants for absentee ballots

The list of applicants for absentee ballots should be packed in the fibreboard box. This list may be first placed in a manila envelope but, in most towns, it is not.

f. sheet showing disposition of absentee ballots

The sheets showing the disposition of absentee ballots, Form A.V. 20 and A.V. 20A, should be signed by the warden in the space provided at the top of the form and then packed into the fibreboard box.

g. rejected absentee ballots

If rejected absentee ballots are sent to the polling place, they should be kept together either in a labelled manila envelope or with an elastic and packed in a fibreboard box. They should not be mixed with the return and inner envelopes related to counted absentee ballots.

h. used certificates or cards - voters in line at close

Certificates or cards used by voters who were waiting in line at the close of the polls, if any, should be packed in the fibreboard box. They may be kept together with an elastic.

i. ballot box keys

After the ballot box has been locked, the keys should be sealed in a manila key envelope. In some towns, this ballot box key envelope is packed in the fibreboard box. In other towns, the ballot box keys are returned to the town clerk outside the box. In a primary, if separate fibreboard boxes are used for each party, the ballot box keys should be returned outside the fibreboard box since you will not know which party may be involved in a recount.

j. seal fibreboard box

After the official election material listed above has been packed, the box should be closed, the straps fastened and sealed the same as the box containing counted ballots except that a cloth seal is not required. The label showing the contents of the box should be signed by both the warden and the election clerk and then taped or glued on the box.

4. Miscellaneous Unofficial Election Material

All miscellaneous unofficial election material should be placed in a separate box. An extra fibreboard box may be used, but in many towns, a cardboard carton is provided. This box or carton does not need to be sealed.

The material to be placed in the carton includes pens, pencils, rulers, scratch pads, pencil sharpeners, cellophane

and masking tape, empty notebooks which contained the voting list during the election, Election Officer Handbooks, extra voting lists, list of dropped voters, extra blank party change cards if a primary, instruction sheets, name tags, unused ballot question material or pamphlets, etc.

Unused certificate forms may be returned in the carton, but it is suggested that these be placed in a manila envelope and care be taken to be certain the blank certificates are not misplaced, particularly if these forms have been pre-signed by the registrars or the town clerk.

In a primary, party change cards completed and signed by voters and left with the election officers or at the party change card table at the polls should not be sealed in a fibreboard box since they will need to be processed shortly after the election. They may be placed in the carton but considerable care should be taken to ensure that these cards are not misplaced.

Signs, instruction and penalty cards, specimen ballots, precinct maps and indexes posted on the walls at the polls should be taken down and may be placed in the carton, if space permits. In any event, they should be returned to the town clerk in some manner.

C. VOTING MACHINE TOWNS [54:35B; Regs. 52.04(33),(35)]

In voting machine towns, all official election material can be packed in the same fibreboard box. For primaries in which separate voting machines are used for each party, the official election material may be separated by party and packed in separate boxes. If both party ballots appear on each machine, the material cannot be separated by party. The following material must be packed and sealed:

1. Printomatic Machines Only

The following applies only if printomatic machines are used.

a. proof sheets

The proof sheet removed from the back of each machine before the polls opened should be packed in the fibreboard box. Check to be certain that the certificate on each sheet has been dated and signed by the warden and clerk. [Regs. 52.02(14)(a)(3)] The sheets may be piled up and folded together. It is suggested that they be folded so that the public counter number and machine number are on

the outside to show at a glance that they are proof sheets rather than counted pack sheets.

b. counted pack sheets

The pack sheet from each machine used by the tellers to count and record votes should be packed in the box. In some towns, the certificate on the bottom of this sheet is completed and signed by the warden and clerk although this is not required. The sheets may be piled up and folded together. It is suggested that they be folded so that the public counter number and machine number are on the outside to show at a glance that they are counted sheets rather than proof sheets.

2. Write-in Paper

The write-in paper which was removed from any machine should be folded up and packed in the box. Unless there were very few write-in votes cast, the paper will need to be pressed down firmly. If a large number of write-in votes were cast, a separate box may be needed for write-in paper since it takes up a considerable space.

It is suggested that write-in paper removed from the machine be packed in the box even if no write-in votes were found or the only votes found were for Mickey Mouse, etc. Should the voting machines be examined during a recount, questions will be raised concerning whether or not all write-in votes were counted and recorded unless either the red sticker (or entries made by the election officer on election morning) can be seen on the lower roller or the removed paper itself can be examined.

3. Used Voter Authority Certificates

While votes are being counted and recorded, the voter authority certificates should be collected and packed in the fibreboard box. First sealing the certificates in an envelope or bag is not required but will make it much easier to retrieve the necessary election material from the box during a recount.

4. Escrow Ballots (see A. 3. on page 224)

5. Counted Absentee and Challenged Ballots

The block envelopes containing the counted absentee and challenged ballots should first be checked to be certain that the tellers have signed them and that the number of ballots enclosed has been entered on the outside. In primaries, check to be certain the party name or initial has been entered on the

envelope. Then seal each block envelope using a gummed cloth seal. (see B. 1. Counted Ballots on page 225)

After sealing, each block envelope containing counted ballots should be packed in the box. If a separate box for each party is used, be certain that the correct ballots are placed in each box.

6. Absentee Ballot Envelopes, Applications, List of Applicants, Disposition Sheets and Rejected Absentee Ballots

The absentee ballot envelopes and related absentee ballot material should be packed in the box the same as in paper ballot towns. (see B. 3. d. through g. on pages 227 and 228)

7. Unused Absentee Ballots

In some towns, the unused absentee ballots provided for challenged or escrow ballots and in case all voting machines fail are packed in the fibreboard box. In other towns, these ballot are returned to the town clerk in the box with miscellaneous unofficial election material.

In any event, they should be safely returned to the town clerk.

8. Unused Challenged Ballots

Any unused absentee ballots on which CHALLENGED BALLOT has been stamped, should be packed in the fibreboard box. They may first be sealed in an envelope, but this is not required. (see PREPARING ELECTION MATERIALS, 1. BALLOTS, B. 6. in Volume 3 of this series)

9. Used #7 Envelopes and Machine Keys [Regs. 52.04(33)(c)]

Check the gray 7-C envelopes, or the equivalent envelope if no. 7 packages are not used, to be certain that each contains the correct machine keys and that the required information has been entered. Each envelope should then be sealed.

In some towns, the sealed 7-C, or equivalent envelopes are placed back in the small manila outside key envelope in which keys were received at the polling place on election morning. Then these envelopes containing the keys are packed in the box.

In other towns, the sealed 7-C, or equivalent envelopes are sealed in a large labelled manila envelope to be returned to the town clerk outside of the fibreboard box. In this case, the information required for identification, certificate of contents and both warden's and election clerk's signatures should be entered on the outside of the large envelope.

In any case, the small manila outside envelope containing the machine, public counter and seal number, etc. before the polls opened must be returned to the town clerk as well as the completed and signed gray 7-C, or equivalent envelope containing the keys.

10. Completed and Signed Certificates

Completed and signed certificates of voting machine failure, candidates' counters not registering zero before the polls opened, or that the machines were properly prepared may be packed in the fibreboard box or placed in the envelope with the election clerk's record.

11. Used Certificates and Cards - Voters in Line at Close
(see B. 3. h. on page 228)

12. Ballot Box Keys (see B. 3. i. on page 228)

13. Seal Fibreboard Box

After the fibreboard box has been packed, it should be closed and straps fastened. Then the box should be sealed the same as for counted paper ballots. The warden and clerk should then sign the label listing the contents and attach it to the box.

14. Miscellaneous Unofficial Election Material (see B. 4. on page 228)

D. PUNCH CARD TOWNS

In punch card towns, some official election material must be packed and locked in the metal carrying case. Other official election material must be packed and sealed in a fibreboard box. The material and when it is to be packed and locked or sealed in each type of box will depend upon whether or not the polling place is also the tabulation center.

1. Polling Place is Not a Tabulation Center

a. metal carrying case [54:105A; Regs. 54.04(18)]

After the punch card ballots and gray write-in envelopes have been examined and processed at the polling place, the metal carrying case should be packed, locked, and transported to the central tabulation center. The procedures are outlined under XVI. D. 2. on page 205.

b. fibreboard box [Regs. 54.04(19)]

The following materials should be packed and sealed in a fibreboard box at the polling place:

(1) unused punch card ballots

Unless the unused punch card ballots have been packed in the metal carrying case, they should be packed in a fibreboard box.

(2) used gray write-in envelopes - no write-in votes

The used gray write-in envelope containing no write in votes should be packed in the fibreboard box. These envelopes will be needed during a recount in case a question arises concerning whether or not all write-in votes have been counted and recorded.

(3) absentee ballot envelopes, applications, list of applicants, disposition sheets and rejected absentee ballots

The return and inner absentee ballot envelopes and other related absentee ballot material should be packed in the fibreboard box the same as in paper ballot towns. (see B. 3. d. through g. on pages 227 and 228)

(4) spoiled ballots

The spoiled ballots should be sealed in the spoiled ballot envelope and packed in the fibreboard box the same as in paper ballot towns. (see B. 3. b. on page 227)

(5) escrow ballots (see A. 3. on page 224)

(6) used certificates or cards - voters in line at close (see B. 3. h. on page 228)

(7) used demonstration cards

Used demonstration cards may be packed in the fibreboard box.

(8) punch cards used to test marking units

The cards used to test marking units before the polls opened and at intervals during the day should be packed in the fibreboard box.

(9) stubs from used punch card ballots

The stubs separated from used punch card ballots at the check-out table may be placed in the fibreboard box. In some towns, the envelope or box in which the stubs were placed during the election is sealed up and placed in the cardboard carton instead of the fibreboard box. (see c. below) In some towns, these stubs are not kept.

The small stubs stapled in blocks of 50 from which the punch card ballots were removed at the check-in table are usually placed in the metal carrying case. They may be placed in the fibreboard box.

(10) ballot box keys (see B. 3. i. on page 228)

After the fibreboard box has been packed it should be closed and the straps fastened. Then it should be sealed the same as a fibreboard box containing counted paper ballots, except that a gummed cloth seal is not required. (see B. 1. on page 226) The warden and election clerk should then sign the label listing the contents and attach it to the box.

c. miscellaneous unofficial election material

Miscellaneous unofficial election materials should be packed at the polling place in the cardboard carton or box provided. This box does not need to be sealed.

Additional materials may be placed in the cardboard carton such as, marked or damaged ballot booklets replaced during the election, extra styluses, unused extra ballot booklets and frames, repair kit, unused demonstration cards, stubs from used punch card ballots, if not packed in fibreboard box, etc.

2. Tabulation Center at Precinct Polling Place [Regs. 55.11]

a. metal carrying case

If the polling place is the tabulation center, the materials to be packed and locked in the metal carrying case are the same as outlined under XVI. D. 2. on page 205 except that tally sheets with the related computer printouts attached are sealed in the tally sheet envelope instead of the metal box and the precinct clerk's report should be packed in the fibreboard box or in an envelope instead of in the metal carrying case. In addition, the computer printout from the before count and the after count test may be enclosed in the metal carrying case or sealed

with the tally sheets and computer printout of counted ballots. (see A. 2. b. on page 224)

Before being packed in the metal case, the following envelopes should be sealed and the information required for identification, the certificate of contents and the precinct warden's and clerk's signatures should be entered on the outside of the envelope.

- the manila envelope containing damaged, computer rejected and over-voted cards [Regs. 55.09(4)]
- the manila envelope containing the gray write-in envelopes on which write-in votes were entered
- the manila envelope containing gray write-in envelopes related to challenged ballots. Note that the challenged punch card ballots may also be placed in this envelope after they have been counted by the computer. Doing so will expedite a recount. (see AFTER ELECTION DAY, XI. RECOUNTS on page 339)

After being packed, the carrying case should be locked and sealed. In some towns, green plastic seals are used instead of gummed or self-stick seals. The precinct warden and clerk should sign the label listing the contents and attach it to the case.

In some towns, the key to the case is sealed in an envelope. The warden must deliver the key to the town clerk at the time the case is returned.

b. fibreboard box

The materials to be packed and sealed in the fibreboard box are the same as outlined under D. 1. b. on page 233.

c. miscellaneous unofficial election materials

The materials to be placed in the cardboard carton are the same as outlined under D. 1. c. on page 234.

3. At Central Tabulation Center [55.10(2), 55.11]

a. metal carrying case

At a central tabulation center, the procedures for packing and sealing the metal carrying case are the same as outlined under 2. above, except that the tabulation center warden and clerk sign the certificates on envelopes and the labels.

b. fibreboard box

There is no fibreboard box to be packed and sealed at the central tabulation center.

c. miscellaneous unofficial election materials

Miscellaneous unofficial election materials such as pens, pencils, cellophane tape, scratch pads, etc. should be placed in the cardboard carton or box provided. This carton or box does not need to be sealed.

E. PENALTIES [56:16,22,50,55]

Election officers are subject to the following penalties:

- for wilfully violating any provision relating to the enclosing in envelopes or containers, sealing and endorsing the envelopes or containers in which ballots or voting lists have been placed or for violating any provision relating to delivering the same to the town clerk; a fine of not more than \$500.00 or imprisonment for not more than 1 year. [56:16]
- for refusing or wilfully failing to perform any duty imposed by law, or for performing any duty contrary to law; a fine of not less than \$500.00 nor more than \$1,000.00 or imprisonment for not more than 1 year, or both. [56:22]

All persons are subject to the following penalties:

- for depositing a ballot in an envelope or container or removing a ballot therefrom, if not authorized; imprisonment for not more than 2 1/2 years. [56:50]
- for depositing a ballot in or removing it from an envelope or container with intent to defraud; imprisonment for not more than 2 1/2 years. [56:55]

XX. RETURN ELECTION MATERIAL TO TOWN CLERK [54:66,105A, 107; 56:49; Regs. 51.04(32), 55.11]

After all election material has been packed and if necessary, sealed in the fibreboard box or locked and sealed in the metal carrying case, it must be returned to the town clerk.

The warden shall personally deliver to the town clerk, or transmit to him by the police officer or constable in attendance at the election,

all ballots cast and not cast, the voting list, and the ballot box. [54:66,107] While not specifically mentioned in 54:107, other election material, such as total vote sheets, etc. must also be so delivered.

In towns having precincts at separate locations or in one location but not in the building where the town clerk's office is located, the warden with the assistance of the election clerk, or the police officer should transport the material to the town clerk. If the town clerk's office is located in the same building as the polling place, the town clerk with assistance from the warden, election clerk and/or police officer usually hand carry the material to the office.

In some towns, the ballot box is locked in a room or closet at the polling place where it is regularly stored between elections instead of being transported to the town clerk's office. Since ballot boxes are difficult to transport in a car, in some towns, they are brought to the town clerk's office in a highway department or other truck.

In any case, a high level of security should be maintained for all official election material and for ballot boxes while being returned.

The penalty on whoever wilfully obstructs or interferes with the returns from a polling place or from a central tabulation center is a fine of not more than \$500.00 or imprisonment for not more than 1 year. [56:49]

XXI. TOWN CLERK TO RECEIVE ELECTION MATERIAL

The town clerk shall receive from all polling places the sealed containers and shall place all sealed election material, so far as practicable, in a locked facility. [54:105]

All official election material, except as noted below under specific items, should be placed under high security in the vault or office safe, if possible, until the expiration of the state retention period, 30 days following the primary or election. After state primaries and elections and presidential primaries, it should be safely kept until after the federal retention period has expired, 22 months following the primary or election although the material does not need to be kept under the high security provided by the vault or safe beyond the 30 day period. (see AFTER ELECTION DAY, XII. RETAINING ELECTION MATERIAL on page 404)

A. FIBREBOARD BOXES AND METAL CARRYING CASES

In many towns, the sealed fibreboard boxes and metal carrying cases are placed in the vault as soon as they are received. If they cannot be placed in a vault upon receipt, they should be

placed in a room which can be locked and which provides as high a level of security as possible. It is suggested that, if possible, the town clerk should have exclusive access to such a room.

In some towns when the town clerk considers it necessary or advisable, a guard is continuously stationed at the door of the vault or room until the expiration of the state retention period. Such a guard is sometimes employed only when there is reason to believe that the election will be contested or when the election results are very close and the town clerk believes it likely that a recount may result in a court case. On occasion, sealed election boxes have been placed in a cell in the local police station.

B. BALLOT BOXES

If possible, ballot boxes should be stored under the same security as fibreboard boxes and metal carrying cases.

C. VOTING LIST ENVELOPE

The sealed envelope containing the voting list may be placed in the vault with the fibreboard box or metal carrying case. However, in most towns, it is placed in the town clerk's office safe so that it will be available for public inspection or for copying. (see AFTER ELECTION DAY, V. EXAMINING THE CHECKED VOTING LIST on page 297)

D. TOTAL VOTE SHEET ENVELOPE

The envelope containing total vote sheets may be opened upon receipt by the town clerk. In some towns, the town clerk or his designee calls the local newspapers, candidates and others upon request to report the election results on election night. In some towns, a copy of the total vote sheet is made and provided to the police department since usually many calls are received by that department particularly following an annual town election.

In precinct towns, the total vote sheet from each precinct will be needed to enter the returns on the town total vote sheet. (see XXIII. TOWN TOTAL VOTE SHEET on page 240)

The total vote sheet and any block tally sheets not sealed in a fibreboard box should be safely kept in the town clerk's office until the permanent election record has been prepared (see AFTER ELECTION DAY, IV. PERMANENT ELECTION RECORD on page 295) and at least until after the state retention period has expired.

E. ESCROW BALLOT ENVELOPE

If the escrow ballot envelope is returned outside of the fibre-board box, it should be placed under high security, either in the vault or in the town clerk's office safe at least until after the state retention period has expired. Note that the envelope may need to be removed and opened by the registrars after the election to examine the ballots and determine which, if any, should be counted. (see AFTER ELECTION DAY, I. ESCROW BALLOTS on page 277)

F. KEYS TO BALLOT BOX, VOTING MACHINES, METAL CARRYING CASE

The keys to the ballot box in all towns, the voting machine keys in voting machine towns and the metal carrying case key in punch card towns if returned outside of a fibreboard box, should be placed under high security, either in the vault or in the town clerk's office safe at least until after the state retention period has expired.

G. ELECTION CLERK'S RECORD

The election clerk's record should be kept under high security either in the vault or in the office safe at least until after the state retention period has expired. The record should be safely retained permanently.

H. MISCELLANEOUS UNOFFICIAL ELECTION MATERIAL

The box containing unofficial election material requires no security after an election. It is usually placed in the town clerk's office area on election night. When time permits after election day, the material can be sorted out and put away or disposed of as appropriate.

XXII. CLEARING OUT POLL PLACE

In some towns, the polling places are cleared out on election night before the election officers leave. The paper ballot booths or punch card marking shelves are folded up and put in storage. Tables used by election officers, candidates' workers, etc. are folded up and put away. Any litter left by the election officers, voters, observers, etc. is collected and disposed of. The punch card marking units are packed up and returned to the town hall. The coffee pot is cleaned and leftover snacks are collected and returned to the town hall.

In some voting machine towns, the machines are cranked down, removed from the voting room and placed in storage. Or, if a recount is likely, the machines are sometimes left in the voting room until after the recount is held or the time for recounts has expired. In any case, the voting machines should be cranked down on election night to guard against their being tampered with and the dust covers should be placed on them before they are put in storage.

The warden then checks the voting room to be certain all is in order. He turns off the lights and locks the doors before he leaves to return official and unofficial election material to the town clerk.

In other towns, election officers are only responsible for packing up and returning the official and unofficial election material as outlined under XIX. PACKING AND SEALING ELECTION MATERIAL and XX. RETURN ELECTION MATERIAL TO TOWN CLERK on pages 222-236. The remaining clean-up work is done by the building custodians. If so, be certain that the custodians know what must be done and where election equipment must be placed.

Sometimes the highway department assists in returning booths, voting machines, or punch card marking units to the proper storage area. Voting machine custodians are often responsible for preparing voting machines for storage and placing them in the proper area.

In any event, be certain that the clean-up work is done according to the schedule required by the person in charge of the building, either on election night or within a day or two after the election. Otherwise, you are likely to receive complaints and if a private building is used, you may have permission to use the building revoked.

XXIII. TOWN TOTAL VOTE SHEET

Several sections of the General Laws require that the town clerk, or the town clerk and board of registrars canvass the returns or records of the votes. [39:21; 53:52,64,70F] 53:70F also requires that the town clerk determine the results of the votes for members of political town committees. The canvass or determination of the results is usually made by completing the town total vote sheet.

In addition, the total number of votes cast in the town for candidates and ballot questions will need to be calculated so that the appropriate certificates can be issued, the returns can be made to the state secretary and others, and the permanent election record can be prepared.

In most towns, the town total vote sheet is completed, in so far as possible, on election night and Form E-231A, E-231B or, in some voting machine towns, Form E-231M is used. Note, however, that under certain circumstances the town total vote sheet will need to be amended

following election night. (see AFTER ELECTION DAY, I. ESCROW BALLOTS on page 277 and II. ABSENTEE BALLOTS RECEIVED LATE on page 285)

A. GENERAL

1. Towns Without Precincts or Voting by Grouped Precincts

In towns which do not have precincts, or in which all precincts have been grouped, the total vote sheet completed in the polling place on election night is used for the town total vote sheet and a separate sheet is not needed. Note that for primaries, there must be a separate town total vote sheet for each party. The procedures for completing the town total vote sheet are the same as outlined under XVI. COUNTING VOTES, B. 15 on page 173 for paper ballot towns, C. 6. on page 192 for voting machine towns, and D. 4. on page 214 for punch card towns. Necessary amendments for counted escrow ballots and, after November state elections, for overseas absentee ballots can be made directly on the sheet. (see sample town total vote sheet on pages 262 and 265)

2. Precinct Towns

In towns voting by precinct, the returns shown on the precinct total vote sheets from each precinct should be added together to obtain the town totals. A Form E-231A is used unless the town has more than 13 precincts. In that case, Form E-231B may be used. In voting machine towns, Form E-231M is sometimes used.

Note: The procedures outlined under XVI. COUNTING VOTES, B. 15, C. 6. and D. 4. relate to entering votes on and completing the precinct total vote sheet if the town votes by precincts.

The town total vote sheet is prepared the same as a precinct total vote sheet except that in the first column, "Precinct" is entered where the word "block" or the ditto marks appear. The numbers 1, 2, 3, etc. in the first column refer to precincts rather than blocks. (see sample town total vote sheets on pages 273 and 274)

Usually, the town total vote sheet is completed in the town clerk's office on election night and in some towns, two of the regularly appointed election officers are assigned for this purpose. This work is begun as soon as the first precinct total sheet is received. However, if the precinct polling places are all located in the same building and the town clerk is at that building on election night, the town total vote sheet may be completed there rather than in the office. Or, in punch card towns having a central tabulation center, the

precinct returns may be entered on the town total vote sheet at the center.

Note: For town elections, the town clerk and the board of registrars, upon receipt of the returns from the several precincts, shall canvass the same and declare the results. [39:21] In this case, the board of registrars should be present with the town clerk to complete the town total vote sheet.

B. EXAMINE THE ELECTION OFFICERS' RECORDS - CORRECTIONS [54:111]

1. Town Clerk to Examine Election Officers' Records

The town clerk shall forthwith after each election examine the copies of records of the election officers.

a. towns without precincts or voting by grouped precincts

In towns without precincts or voting by grouped precincts, the town clerk is usually at the polling place on election night and examines the total vote sheet before the vote is announced to be certain that the totals are correct and that the sheets have been balanced. (see XVI. B. 15. c. balancing total vote sheet on page 175 and XVII. ANNOUNCE ELECTION RESULTS on page 218) In this case, no additional examination of the total vote sheet is needed. However, if the town clerk is not at the polling place, he should examine the total vote sheet at the office as soon as it is received. In punch card towns, the town clerk would examine the total vote sheet before the public announcement of the vote at the tabulation center.

Note: In voting machine towns, the total vote sheet completed at the polls will have been balanced only if the blanks for each machine were entered at that time.

b. precinct towns

In precinct towns, each precinct total sheet should be examined as soon as it is received to be certain that the totals entered are correct and that the sheet has been balanced.

In voting machine towns, the precinct total vote sheet will have been balanced at the polls only if the blanks for each machine were entered at that time. In some towns having printomatic machines, an extra copy of the pack sheet from each machine, returned outside the fibreboard box, is used to check the machine votes entered on the total vote sheet. (see XVI. C. 2. c. on page 177) In other voting machine towns, such a check is not made unless

it appears that an error was made on the total vote sheet. For example, the pack sheet is examined only if the total number of votes cast for candidates under a given office is found to be larger than the total number of ballots cast in the precinct or one candidate appears to have received an unusually large number of votes compared to what might be expected in that election.

2. Correcting Errors on Total Vote Sheet [54:111]

54:111 provides that if any errors are found on the records of the election officers, the town clerk shall forthwith give notice to the election officers who made the error. The election officers shall forthwith make an additional record under oath in conformity with the facts and deliver a copy thereof to the town clerk. The copy shall be received by the town clerk at any time before the last day fixed for the transmission of copies of the record of the votes cast or on which the results of the election are required to be declared. (see DECLARE CANDIDATES ELECTED OR NOMINATED on page 249 and AFTER ELECTION DAY, VI. ELECTION RETURNS TO BE TRANSMITTED on page 300)

Errors made by election officers on a total vote sheet would include mistakes not found prior to announcing the vote at the polling place such as, errors in addition, in reading the number of votes from a block tally sheet, machine pack, candidate counters, or in balancing the sheet

Note: A recount may also show that errors were made in the original count, but procedures for amending the record are specified elsewhere in the General Laws. [54:135,135A,135B] (see AFTER ELECTION DAY, XI. RECOUNTS on page 339)

If any errors are found when you examine the total vote sheet in your office, the appropriate corrections should be made. In most towns, the error is corrected directly on the total vote sheet completed at the polling place or in punch card towns, at the tabulation center and a separate additional record is not prepared. If the election clerk is present when the town total vote sheet is being completed, the oath may be administered and the correction signed by the election clerk at that time. Otherwise, contact him as soon as possible after election day and have him come to the office to sign the correction and take the oath. (see sample corrected precinct total vote sheet on page 275)

In any case, do not erase the figures appearing on the total vote sheet. Circle or draw a line through the incorrect number and enter the correct number next to it. If room, add the word "error" next to the incorrect number or add a note stating that circled or crossed out numbers were found to be incorrect.

The election clerk should sign a statement on the total sheet as follows:

I solemnly swear (affirm) that this total vote sheet has been corrected and is now a true record of the election held on [date].

Date _____ Signature _____
Election Clerk

Note: In some towns, the precinct clerk is required to be present in the office or tabulation center until the precinct total vote sheet has been examined and found to be correct or corrected.

C. ABSENTEE BALLOTS COUNTED IN OFFICE [54:95]

Absentee ballots received on election day may be counted in the the registrars' office at the hour the polls close. The affidavits on the inner ballot envelope should have been examined by the town clerk after receipt during election day to determine whether the ballot must be accepted or rejected and the disposition sheet marked accordingly. Ballots rejected as defective should be separated from other ballots. (see ABSENTEE BALLOTS, VII. PROCESSING ABSENTEE BALLOTS in Volume 3 of this series)

Also, the records of absentee voters' certificates should be carefully checked to be certain that the absentee ballot of a person who received such a certificate is rejected. (see 54:100)

Note: Absentee ballots received on election day are not usually counted in the office unless the town has several precincts and it is difficult or impossible to get these ballots to each polling place in time to have them counted there.

1. Preliminary Procedures

The absentee ballots should be prepared for counting using the following procedures.

While not specifically required by 54:95, the voter's name and address should be announced before the ballot is removed from the envelope to permit it to be challenged, particularly if a candidate, his representative or the public is present in the office.

Absentee ballots counted in the office are not required to be deposited in a ballot box prior to counting, but this may be done if there is an extra ballot box available. However, a ballot box used at a polling place should not be used for

ballots counted in the office even if it has been returned from the polls at this time. Such a ballot box must remain locked for at least 30 days after the primary or election and the ballot box register should remain on the number recorded by the election clerk at the polls.

The ballots may be removed from the envelopes before the polls close, but the ballots cannot be opened or the votes counted until after the polls close.

If, when the inner ballot envelope is opened, more than one ballot is found, the ballots should be replaced in the ballot envelope and placed back in the return envelope. Mark the return envelope REJECTED AS DEFECTIVE and set it aside.

2. Count Ballots

After the polls have closed, the ballots should be counted using the procedures for counting paper ballots or, in punch card towns, for hand counting punch card ballots as outlined under XVI. COUNTING VOTES, B. 7. through 12. on pages 161-172, and D. 1. on pages 200-205 except that regularly appointed election officers or tellers are not required. The ballots may be counted by anyone. (see 1985:477) However, it is suggested the ballots be counted by a team of two people, one to read the votes and the other to record on the tally sheet.

A regular block tally sheet should be used except that the words ABSENTEE BALLOTS - OFFICE COUNT or some similar words should be entered at the top of the sheet. In precinct towns, these absentee ballots should be counted separately by precincts and entered on a separate block tally sheet for each precinct.

3. Amend Records

After the official election material has been received from the polling places, several records must be amended.

a. total vote sheet

The totals from the block tally sheet must be entered on the total vote sheet and those totals adjusted accordingly. (see sample adjusted total vote sheet on page 275) In towns voting by precincts, enter the totals from each precinct block tally sheet on the appropriate precinct total vote sheet before entering the precinct results on the town total vote sheet. Also correct in the election or precinct clerk's certificate, the total number of names marked on the voting list and the total number of ballots cast. Do not erase any original entries on the total vote sheets completed at the polls.

It is suggested that the following statement be entered directly on the adjusted total vote sheet and signed by at least a majority of the registrars.

SAMPLE STATEMENT

Date _____

This is to certify that this total vote sheet has been amended to include the votes cast on [number] of absentee ballots received on election day and counted in registrars' office as provided in Ch. 54, s. 95 G.L.

Registrars of Voters of [town]

b. checked voting list

In addition, the checked voting list(s) must be removed from the sealed envelope. Mark the name of each voter whose absentee ballot was counted in the office. The return envelopes may be used for reference in marking the names. Note that if a ballot was rejected as defective, the letter "R" should be marked on the voting list. Then reseal the voting list(s) in the envelope. On the outside add the following certificate which should be signed by the registrars:

This envelope containing the check list used at the [type of election] in precinct [number] was opened at [hour] on [date] to mark the names of voters whose absentee ballots were counted in the registrars' office as provided in Ch. 54, s. 95. G.L.
The envelope was resealed at [hour].

If the number of names marked was entered by the election officers at the polls on the outside of the envelope, cross out that number and enter the adjusted total. Add a note indicating the reason for the adjustment such as, "total adjusted - # absentee ballots counted in office."

c. election clerk's record

In the election or precinct clerk's record, adjust the number of names marked on the voting list, the number of absentee ballots cast and the total number of ballots cast to include the number of these absentee ballots. Add a note indicating the reason for the adjustment. The registrars should sign the note.

Note: If the disposition sheet was sent to the polls before it was marked to include these ballots, that sheet will also have to be amended when it is returned from the polls. The fibreboard box will need to be opened to retrieve the disposition sheet. After marking the sheet, return it to the fibreboard box and reseal the box. Tape a note on the box stating that it was opened for the purpose of amending the disposition sheet, that the sheet was returned to the box and that it was resealed.

D. PARTIAL BALLOTS (Presidential elections only) [51:1F] (see ABSENTEE BALLOTS, X. PARTIAL BALLOTS in Volume 3 of this series)

For presidential elections only, partial ballots containing the office of electors of president/vice president must be counted in the office. If only one or two ballots have been cast, they may be entered directly on the town total vote sheet regardless of whether or not voting took place by precincts. If, however, a number of partial ballots have been cast, they should be counted and recorded on a block tally sheet, the total number of votes then transferred to the town total vote sheet and added to the total votes for president/vice president.

Preparing a block tally sheet and counting the ballots is the same as for paper ballots except that only the one office will appear on the ballot and tally sheet and the words PARTIAL BALLOTS should be entered at the top of the sheet.

For each ballot cast, mark the name of the voter on the list of partial ballot applicants. The name and address of the partial ballot voter is not required to be announced. However, if a candidate, his representative or the public is present in the office, the name and address should be stated aloud to permit the ballot to be challenged.

There is no requirement that partial ballots be deposited in a ballot box, but they may be deposited if an extra box is available.

E. COMPLETING THE TOWN TOTAL VOTE SHEET

After the total vote sheets received from the polling places have been examined and corrected and the votes on any absentee ballots counted in the office have been entered, the town total vote sheet can be completed.

In towns without precincts or voting by grouped precincts, no further work is necessary to complete the town total vote sheet, except for presidential elections when partial ballots must be added. (see D. above) However, in a voting machine town, if the total number of blanks has not been entered at the polling place, it should be calculated and entered at this time.

In towns with precincts, enter the totals from each precinct total sheet in the appropriate columns on the town total sheet under each candidate including write-in candidates and scattering, blanks and total. Under each question enter in the appropriate columns, the YES and NO votes, blanks and total. Be certain to enter the votes in the correct row for each precinct. In voting machine towns, calculate and enter on the town total sheet, the total number of blanks for each office and question for each precinct. It is suggested that one person read the number of votes from the precinct total sheet and another person record the votes on the town total sheet.

If certain candidates do not appear on the ballot in all precincts, such as candidates for town meeting member, state representative etc., the votes may be entered on the town total vote sheet only in the row(s) for the precinct(s) in which the name did appear. (see sample town total vote sheet on page 276)

For presidential elections, enter only on the town total sheet the number of votes from the partial ballots for each candidate, the number of blanks and the total number of ballots under the office president/vice-president.

Then calculate the total number of votes entered in each column. Enter the type of election, the date of the election, and the name of the town at the top of the sheet, if this has not already been done.

In towns voting by precincts, the results shown on the town total vote sheet are usually announced after the town total vote sheet has been completed at the office even though a public announcement is not required. If a sufficient number of escrow ballots were marked so that the election results may change, or for a state election, if a number of late overseas ballots are expected, it is suggested that you announce the results but add that the results may change at a later time because of the escrow or overseas ballots.

There is no requirement in the General Laws that the town clerk certify the results appearing on the town total vote sheet. However, the town clerk should certify the permanent election record and will need to certify the returns forwarded to the state secretary and others. (see AFTER ELECTION DAY, IV. PERMANENT ELECTION RECORD on page 295 and VI. ELECTION RETURNS TO BE TRANSMITTED on page 300)

XXIV. DECLARE CANDIDATES ELECTED OR NOMINATED

In elections, the person receiving the highest number of votes for an office shall be deemed and declared elected to such office. If two or more are to be elected to the same office, the several persons up to the number of persons to be chosen, receiving the highest number of votes shall be deemed and declared elected. However, the persons receiving the same number of votes shall not be deemed or declared elected if the tie would result in electing more than the permitted number. Except as outlined in the next paragraph, this section applies to all nominations and elections by ballot at primaries and caucuses. [50:2]

In a primary, a person whose name is not printed on the ballot, is not deemed to be nominated or elected unless he receives a number of votes at least equal to the number of signatures which would be required by law to place his name on the ballot. [53:40] For example, at a presidential primary, a write-in candidate for town committee would not be deemed or declared elected unless he received at least a total of 5 votes. (see 53:700)

A formal declaration of candidates elected or nominated may be made by the town clerk only following town elections and primaries and following a presidential primary only for the office of political town committee. It would be made after the town total vote sheet has been completed but in towns not voting by precincts it may be made during or after the public announcement of the vote required by 54:105. (see XVII. ANNOUNCE ELECTION RESULTS on page 218)

Such a declaration following a town election might be as follows:

I declare that the following candidates
have been elected to office:

John L. Smith - Moderator
Frank R. Jones and Alice Baker - Selectmen
Xavier Connolly - Assessor
etc.

In some towns, the town clerk declares who has been elected to each office immediately after the votes for that office have been announced instead of waiting until after the votes for all offices have been announced.

If a tie vote resulted in a failure to elect, this fact would be announced under that office instead of declaring a candidate or candidates elected.

Note: The declaration should be made even if a recount is likely or a recount petition has already been filed. 54:135 specifies procedures in case the recount determines that a person was elected or nominated other than the person declared elected or nominated. (see AFTER ELECTION DAY, XI. RECOUNTS on page 339) If, however, the results are close and a sufficient number of escrow ballots has been marked so that the results may be changed under a particular office, a formal declaration of the person elected to or nominated for that office should not be made until after the registrars have examined the escrow ballots and counted those determined to have been marked by persons entitled to vote. [51:59A] (see AFTER ELECTION DAY, I. ESCROW BALLOTS on page 277)

In some towns, however, a formal declaration is not made. The total number of votes for each candidate is simply announced on election night. In towns without precincts or voting in primaries by grouped precincts, the announcement is made at the polls and not repeated later at the town clerk's office. In precinct towns, the announcement of the results shown on the town total vote sheet is made at the town clerk's office or in punch card towns, at a central tabulation center.

SAMPLE WRITE-IN PAPER
LEFT SIDE WITH RED STICKER

NOTICE

If this notice can still be seen
after the polls are closed, do
not touch the paper roll.

Machine No. 120046

Date 3/21/85

Signed James R. Black

40	39	38	37	36	35	34	33	32	31
----	----	----	----	----	----	----	----	----	----

7-A-8

40	39	38	37	36	35	34	33	32	31
----	----	----	----	----	----	----	----	----	----

40	39	38	37	36	35	34	33	32	31
----	----	----	----	----	----	----	----	----	----

40	39	38	37	36	35	34	33	32	31
----	----	----	----	----	----	----	----	----	----

4-3112 4

SAMPLE PROOF SHEET
PRINTOMATIC VOTING MACHINES

										QUESTIONS AFTER POLLS CLOSE BEFORE POLLS OPEN
0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	
YES	NO	YES	NO	YES	NO	YES	NO	YES		
										OFFICES
7-A	6-A	5-A	4-A	3-A	2-A	1-A	PUBLIC COUNTER			
0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	
7-B	6-B	5-B	4-B	3-B	2-B	1-B				
							Number on candidate counter before polls opened →			AFTER POLLS CLOSE BEFORE POLLS OPEN
0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 1	0 0 0	0 0 0	0 0 0	
7-C	6-C	5-C	4-C	3-C	2-C	1-C	MACHINE NUMBER			
0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	157717 <div style="border: 1px solid black; width: 80px; height: 15px; margin: 2px 0;"></div>
7-D	6-D	5-D	4-D	3-D	2-D	1-D				
										AFTER POLLS CLOSE BEFORE POLLS OPEN
0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	
7-E	6-E	5-E	4-E	3-E	2-E	1-E				

SAMPLE

PROOF SHEET CERTIFICATE

PRINTOMATIC VOTING MACHINES

CERTIFICATE No. 1

To be filled out and signed by the Election Officers before the opening of the polls.

We, the undersigned Election Officers of _____ in said County, do hereby certify:

Precinct, District and/or Ward

1. That on the _____ day of _____ 19____, we carefully compared the Ballot Labels with this sheet and found that the Names, Numbers and Letters thereon agreed on this Machine numbered _____
2. That the Machine was sealed before the polls were opened with Seal No. _____
3. That the Protective Counter on this Machine before the polls were Opened, read _____
4. That the Record of the Public, Candidate and Question Counters printed above was the Record of this Machine before the polls opened.
5. That the Paper Roll was properly Affixed with date of the Election and with identification of Machine No. _____
6. That the above statements are True and Correct in every particular.

STATE OF _____)

SS:

COUNTY OF _____)

1 _____

2 _____

3 _____

4 _____

5 _____

6 _____

ELECTION OFFICERS



PULL DOWN HERE

SAMPLE
INSTRUCTIONS FOR DEMONSTRATION
PUNCH CARDS (EXCEPT DATAVOTE)

The demonstration unit should face the voter. You should stand or sit opposite or beside the unit. Explain and demonstrate each step and ask the voter to punch the card a few times to be sure he understands the procedure. Use only the demonstrator cards provided. Use a new card for each voter. Place used demonstrator cards in the envelope provided. Used and unused demonstrator cards should be turned in to the Warden after the polls close. If you should need to leave the demonstration unit before your replacement arrives, please inform the Warden.

Greet the voter and ask if he wishes to have a demonstration of how to vote.

Show the voter a gray write-in envelope and a demonstrator punch card. Explain as follows:

1. You will receive a gray envelope and a punch card at the check-in table after your name has been marked on the voting list.
2. Take the envelope and card to any unoccupied booth. (For primaries: Take the envelope and card to any unoccupied booth which has the name of your party on it.)
3. Insert the punch card in the unit as far as it will go, using both hands. If you use only one hand, you may damage the card.
4. Place the two oval holes at the top of the card over the blue or red pins. This keeps the card in the correct position while you are voting.
5. Turn the first card over the same as opening a book. You will see the offices and candidates' names at the left.
6. You will see a stylus at the right attached to the unit by a chain. This stylus must be used to punch holes in the card. If you use a pen or pencil, your card will be damaged.
7. Take the stylus and hold it upright. Place it in the voting circle (hole) next to the candidate for whom you wish to vote. Punch down and through the card.
8. After voting for candidates on the first page, turn the next page in the booklet to continue voting. Keep turning pages and voting until you see the words "END OF BALLOT" on the card at the right.
9. Try punching a few holes yourself. (Give the stylus to the voter and let him punch some holes.) Notice the black spot which indicates you have recorded a vote.
10. After voting for the candidates you choose and on the questions, return the stylus to its place at the right of the unit and turn the booklet back to the first page so it will be ready for the next voter.
11. Lift the card off the pins and remove it from the unit.
12. Hold the card up to the light. Check the holes you have punched to be sure they are clear and clean. You should not find any small rectangles hanging from the card. If you are not sure your card is satisfactory, or you have made a mistake in punching it, consult the warden or the election officer who gave you the card. If the card is spoiled or you made a mistake, you can turn it in and obtain a new one.
13. If your card is satisfactory, place it in the gray envelope and take it to the check-out table. The election officers at that table will show you how to remove the stub and how to place your ballot in the ballot box after they have marked your name on the voting list.

If requested, also explain the procedures for voting by write-in. Open the gray envelope and show the voter where to write in or affix a sticker. Stress that the voter must enter the office title as well as the candidate's name and address. The candidate's name and address should be as he is registered. Refer the voter to the extra copy of the voting list [or Street List] if he is not sure of the candidate's name or address. Do not give out information concerning any write-in candidate. 254

SAMPLE INSTRUCTIONS - PARTY CHANGE CARDS

Please check in with the warden when you arrive at the polls to work. Please wear your name tag at all times when on duty. You are to sit at the table in the lobby near the voting room exit. Please do not leave the table until your relief arrives. However, if you must leave the table unattended even for just a few minutes, inform the warden.

A supply of blank party change cards and receipts will be available in the box behind the table. If you think you may run out of blank cards or receipts, inform the warden. A supply of pens for the voters' use is also available in the box.

INFORMATION

A voter may complete and sign a party change card after he has voted. This will change his enrollment from the party in which he voted to the party in which he wishes to be enrolled in the future or to unenrolled (independent).

A voter may also complete and sign a party change card without voting or before he has voted. However, the change in enrollment will not become effective until after the primary. He cannot sign a card and then check in to vote in the new party. If the voter thinks the party shown on the voting list is wrong, he should let the election officers at the check-in table know. The warden will call the office to check his enrollment.

If a voter should ask you a question you cannot answer, refer him to the warden or to the town clerk's office. Do not attempt to guess what the answer might be. Referring a voter to someone else is far better than giving him the wrong information.

CHECK COMPLETED CARDS

As each voter hands you his card, check to be sure it has been properly completed and signed as follows:

DATE: [date of primary] should be entered.

NAME: Voter's printed name as registered.

ADDRESS: Voter's current voting address.

FROM: Party in which he voted at this primary or in which he is listed.

TO: Party in which voter wishes to be enrolled after this primary, or unenrolled.

SIGNATURE: Voter's signature as registered.

If the voter is not sure how he is registered, refer to the voting list attached to the table.

GIVE VOTER A RECEIPT

Complete a receipt and give it to each voter who files a card. On the receipt form enter the following:

Date: [date of primary]

Voter's name

A check mark after the party or unenrolled entered on the party change card after TO:

INITIAL COMPLETED AND SIGNED PARTY CHANGE CARDS

After giving the voter his receipt, initial the party change card. When the cards are processed after the primary, your initials will show that a receipt has already been given to the voter. Then place the card in the box provided on the table.

SORT PARTY CHANGE CARDS

Whenever you have time, sort the completed party change cards. They need to be sorted by precincts. Within each precinct, sort in alphabetical order by street name. Within each street, sort in order by house number.

Put an elastic around each pile of sorted cards and place them in the box marked "SORTED CARDS". It is essential that you do not lose or misplace a signed card. If you must leave the table unattended, be certain to give all completed cards to the warden.

SAMPLE OFFICE FORM
OMITTED VOTER - PARTY ENROLLMENT ERROR

PCT _____ WARDEN'S TEL. NO. _____

PROOF SHOWN _____

NAME _____ BIRTH DATE _____ OCCUPATION _____

PREVIOUS NAME (OR NAME ON V.L., IF ERROR) _____

PRESENT ADDRESS _____

ADDRESS VOTED FROM PREVIOUSLY _____

PRIMARY BALLOT REQUESTED: DEM. _____ REP. _____

NAME FOUND ON

NAME NOT FOUND _____

Aff. of Reg. _____ Date Registered _____

REGISTERED IN _____
(Place & Date)

Dropped List _____ Year _____

Current V.L. _____ at _____
(address & pct #)

PARTY ENROLLMENT IS: DEM. _____ REP. _____
UNENROLLED _____

Previous V.L. _____ Year _____

Street List _____ Year _____

Enrolled when registered _____

Voted in primary on _____

Party change card filed on _____

.....

ACTION TAKEN

AT POLLS

AT OFFICE

CERTIFICATES ISSUED

CERTIFICATES ISSUED

Warden's _____ with Challenged Ballot _____

Listing Error _____ with Challenged Ballot _____

Party Enrollment _____ Party _____

Party Enrollment _____ Party _____

OTHER

OTHER

Sent person to office _____

Escrow Ballot _____

Sent voter to pct. where listed _____

Escrow ballot _____

Examples of Contested Ballot Marks

These votes are examples of court rulings on contested ballots in election cases.

SMITH	X	
JONES		

Count for Smith

Cross or check within parallel lines containing name of candidate. Count for Smith.

Beauchemin v. Flagg, 229 Mass.

23, 118 N.E. 251 (1918);

Coughlin v. LeClair, 294 Mass.

434, 2 N.E.2d 461 (1936)

SMITH		X
JONES		

Count as blank

Apex of cross on line.

Coughlin v. LeClair, 294 Mass.

434, 2 N.E.2d 461 (1936).

SMITH		/
JONES		

Count for Smith.

Diagonal marks used with some consistency.

Gilligan v. Registrars of Voters,

323 Mass. 346, 82 N.E.2d 3

(1948).

SMITH		
JONES		X

Count for Jones.

More than one line intersecting diagonal, if distinguishable from attempt to obliterate.

Gilligan v. Registrars of Voters,

323 Mass. 346, 82 N.E.2d 3

(1948).

SMITH		X
JONES		/

Count for Smith.

X clearly appears in Smith box; diagonal line in Jones box inferred to be error.

Gilligan v. Registrars of Voters,

323 Mass. 346, 82 N.E.2d 3

(1948).

SMITH		V
JONES		

Count for Smith.

"V" within Smith box; no mark in Jones. Munn v. Dabrowski, 335

Mass. 41, 138 N.E.2d 570

(1956).

SMITH		X
JONES		O

Count for Smith.

Consistent pattern of zeros for candidates not voted for.

Munn v. Dabrowski, 335 Mass. 41,

138 N.E.2d 570 (1956).

SMITH	
JONES	X

Count for Jones.

Apex of cross within Jones box.
Kane v. Registrars of Voters,
 328 Mass. 511, 105 N.E.2d
 212 (1952).

SMITH	X
JONES	X

Count for Jones

Obliteration or erasure.
Kane v. Registrars of Voters,
 328 Mass. 511, 105 N.E. 2d
 212 (1952);
Munn v. Dabrowski, 335 Mass. 41,
 138 N.E.2d 570 (1956);
DePetrillo v. Registrars of
Voters, 342 Mass. 13, 171
 N.E.2d 843 (1961);
Desjourdy v. Board of Registrars
of Voters, 358 Mass. 644,
 266 N.E.2d 672 (1971);
Morris v. Board of Registrars of
Voters, 362 Mass. 48, 283
 N.E.2d 854 (1972).

SMITH	Y
JONES	

Count for Smith.

Imperfect cross.
Kane v. Registrars of Voters,
 328 Mass. 511, 105 N.E.2d
 212 (1952);
Munn v. Dabrowski, 335 Mass. 41,
 138 N.E.2d 570 (1956).

SMITH	✓
JONES	

Count for Smith.

Checks and crosses intermingled
 on ballot, or all checks.
Munn v. Dabrowski, 335 Mass. 41,
 138 N.E.2d 570 (1956).

SMITH	
JONES	3

Count for Jones.

Use of numeral instead of cross.
Munn v. Dabrowski, 335 Mass. 41,
 138 N.E.2d 570 (1956).

SMITH	X
JONES	

Count for Smith.

Clear impression of cross on
 paper, but only one leg pen-
 cilled. Desjourdy v. Board of
Registrars of Voters, 358
 Mass. 644, 266 N.E.2d 672
 (1971).

SMITH	✓
JONES	

Count for Smith.

Check mark for Smith which dips
 slightly into Jones box.
Desjourdy v. Board of Registrars
of Voters, 358 Mass. 644,
 266 N.E.2d 672 (1971).

NOTE: According the court decision, all parties to a recount should keep in mind
 in their examination of the ballots that the will of the voter, if it can
 be determined with reasonable certainty, must be given effect

Chart prepared by Elections Division, Office of the Secretary of State

METHOD ONE

ANNUAL TOWN ELECTION

of MIDTOWN MARCH 25 1985
(Month, Day)

Ballots counted by	Election Officers.
<u>Myron Jean Place</u>	
<u>Robert L. Gault</u>	

NOTE: For hand count of punch card ballots, except Datavote, add the number assigned to each candidate and to YES and NO for ballot questions.

METHOD TWO

ANNUAL TOWN ELECTION

MARCH 25 1985
(Month Day)

Election Officers.

260

SAMPLE WRITE-IN TALLY SHEET PAPER & PUNCH CARD BALLOTS

Form E-230 275M-8-79-152158

ANNUAL TOWN ELECTION

WRITE-INS

Block No. 2
 Ward _____
 Prec. 1

City _____
 of _____
 Town _____

MARCH 25 19 85
(Month Day)

Ballots counted by _____
 Election Officers. { Mary Jane Hall
Robert L. Counts }

OFFICES AND CANDIDATES	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	TOTALS	CANDIDATES																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																														
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Note:

The 19 blanks can be recorded on the write-in sheet or on the block tally sheet for block 2.

Total votes should be transferred from the write-in tally sheet to the block tally sheet. If there are not enough rows under the office, divide rows in half. Also, "scattering" may be crossed out and a name entered in that row.

Attach write-in tally sheet to block tally sheet. Tellers should sign both tally sheets.

SAMPLE TOTAL VOTE SHEET

PAPER BALLOT TOWNS

E-231A

ANNUAL TOWN ELECTION

The results of canvases are correctly reported on Total Vote Sheets

Total Vote 592 Wd.

Presiding Election Officer.

(Write titles of offices on this line) MODERATOR						LIBRARY TRUSTEE				
	SMITH	SCATTERING	BLANKS	TOTAL		JOHNSON	TRUSTMAN	SCATTERING	BLANKS	TOTAL
Block 1,	30	2	18	50						
" 2,	35		15	50						
" 3,	42	1	7	50						
" 4,	39		11	50						
" 5,	35		15	50						
" 6,	40		10	50						
" 7,	45	1	4	50						
" 8,	41		9	50						
" 9,	39	1	10	50						
" 10,	38		12	50						
" 11,	29		21	50						
" 12,	11	1	30	42						
" 13,										
Totals,	424	6	162	592						

(Write titles of offices on this line)							MIDTOWN SCHOOL COM			
SELECTMAN VOTE 2										
	JONES	ADAMS	BAKER	SCATTERING	BLANKS	TOTAL	TEACHER	SCATTERING	BLANKS	TOTAL
Block 1,	35	25	30		10	100				
" 2,	30	30	35		5	100				
" 3,	37	28	33	1	1	100				
" 4,	29	20	29		22	100				
" 5,	31	25	30		14	100				
" 6,	30	25	40		5	100				
" 7,	30	27	31		12	100				
" 8,	32	30	30		8	100				
" 9,	32	26	33		9	100				
" 10,	36	30	30		4	100				
" 11,	31	26	29		14	100				
" 12,	20	15	30		19	84				
" 13,										
Totals,	373	307	380	1	123	1184				

(Write titles of offices on this line) ASSESSORS								PLANNING BOARD					
	WRITE-N	WRITE-N	WRITE-N	WRITE-N	SLATE-BAL	BLANKS	TOTAL	TRANSIT	SMALL-POST	SCATTERING	BLANKS	TOTAL	
Block 1,													
• 2,													
• 3,													
• 4,													
• 5,													
• 6,													
• 7,													
• 8,													
• 9,													
• 10,													
• 11,													
• 12,													

SAMPLE VOTING MACHINE PACK SHEET

							QUESTIONS
0 6 9	0 0 0	0 0 0	0 6 5	0 8 0	0 0 0	0 0 0	AFTER POLLS CLOSE
0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	BEFORE POLLS OPEN
YES	NO	YES	NO	YES	NO	YES	

							OFFICES
7-A	6-A	5-A	4-A	3-A	2-A	1-A	PUBLIC COUNTER
1 2 6	0 8 3	1 7 0	1 5 8	1 4 7	1 9 9	1 8 1	2 4 4 -2
0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	

7-B	6-B	5-B	4-B	3-B	2-B	1-B	
0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 1	0 0 0	AFTER POLLS CLOSE
0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 1	0 0 0	BEFORE POLLS OPEN

7-C	6-C	5-C	4-C	3-C	2-C	1-C	MACHINE NUMBER
0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	157717
0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	157717

7-D	6-D	5-D	4-D	3-D	2-D	1-D	
0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	AFTER POLLS CLOSE
0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	BEFORE POLLS OPEN

NOTE: Circled number next to public counter box shows the number of votes to be subtracted.

VOTING MACHINE TOWNS

E-231-A 20M-10-83-175A84

МАСН. Блок 1

The results of canvases are correctly recorded on Total Vote Sheets

Presiding Election Officer.

ANNUAL TOWN ELECTION

Total Vote _____ **Wd.** _____ **Pr** _____

Pr

[illegible]

(Write titles of offices on this line)

The is to certify that the titles of the offices, the number of votes cast for each candidate for each office and the number of affirmative and negative votes with respect to each question, as shown above on this tally sheet is a true record of the annual town election held on March 25, 1985,

This is to further certify that the number of names checked on the voting list was 2466 and that the number of ballots cast was 2366

2366

Albert P. Smith
Clerk/Deputy Clerk

James R. Johnson
Warden/Deputy Warden

SAMPLE TOTAL VOTE SHEET

VOTING MACHINE TOWNS

ROWS A AND B USED

* 9,												
* 10,												
* 11,												
* 12,												
* 13,												
Totals,												

(Write titles of offices on this line) <i>TOWN MEETING MEMBER - VOTE 3</i>												
<i>MACH #</i>	<i>25A ADAMS</i>	<i>26A BENSON</i>	<i>27A FROST</i>	<i>28A GERRY</i>	<i>25B PEARSON</i>	<i>26B ROBERTS</i>	<i>27B WILSON</i>	<i>28B YANCY</i>	<i>SCATTERING</i>	<i>BLANKS</i>	<i>TOTAL</i>	
<i>120046</i>												
<i>Block 1,</i>												
<i>120047 2,</i>												
<i>120048 3,</i>												
<i>120049 4,</i>												
<i>120050 3,</i>												
<i>120051 8,</i>												
<i>120052 7,</i>												
<i>120053 8,</i>												
<i>TOTAL 9,</i>												
<i>ABS. QAL 10,</i>												
* 11,												
* 12,												
* 13,												
Totals,												

(Write titles of offices on this line)												

SAMPLE TOTAL VOTE SHEET

VOTING MACHINE TOWNS

E-231-A, 20M-10-81-175884

ANNUAL TOWN ELECTION

The results of canvases are correctly recorded on Total Vote Sheets

Precincting Election Officer.

Total Vote Wd. Prec

MACH #	MODERATOR		SELECTMAN			ASSESSOR (WRITE-IN)					
	1A	2A	3A	4A	5A	6A	7A	8A	9A	10A	11A
TOTAL											
046											
Block 1, 150											
047 2, 178											
048 3, 201											
049 4, 142											
050 5, 193											
051 6, 106											
052 7, 98											
053 8, 65											
054 9, 1133											
055 10, 1152											
056 11, 50											
057 12, 31											
058 13, 2366											

Column For Scattering

Column For Blanks

NOTE: On a precinct total vote sheet, a column for blanks is not needed unless blanks from absentee ballots are entered. However, on a town total vote sheet, a column is needed.

SAMPLE PRECINCT TOTAL VOTE SHEET

FORM E-231M

L 231M

TALLY SHEET FOR LEVER MACHINES

Use as many pages as you need for all candidates and offices.
Print the candidates names in slots under the "Lever Number" spaces. Leave a few blank slots for possible write-ins; then insert a divider column to separate offices.

name of election ANNUAL TOWN ELECTION WARD TOTAL VOTE PAGE 1
date of election MARCH 25, 1985 PCT. 1 clerk
city or town MIDTOWN warden

NAMES OF OFFICES	MODERATOR		SELECTMAN VOTE 2			ASSESSOR WRITE-IN				
WARDS OR PRECINCTS										
LEVER NUMBERS										
NAMES OF CANDIDATES Print in rectangular slots	VOTES CAST	1A	2A	3A	4A	5A	5A	5A	5A	5A
Machine No. 120046	150	142 1	130	68	100 2	15	9	24	4	3
Machine No. 120047	178	170	104	120	122	24	10	30	10	6
Machine No. 120048	201	195	135	130	131	21	15	33	12	4
Machine No. 120049	172	140	82	90	105	12	4	10	2	1
Machine No. 120050	193	185	134	119	115	20	12	28	11	2
Machine No. TOTAL	864	832 1	578	527	573 2	92	50	125	39	16
Machine No.										
Machine No.										
Machine No.										
Machine No.										
Machine No.										
Machine No.										
ABSENTEE	31	28	20	16	18	6	1	7	2	
WRITE-IN										
TOTAL	895	860 1	578	545	571 2	98	51	132	41	16

For your convenience, this tally sheet may be duplicated on a copy machine.

ANNUAL TOWN ELECTION		WRITE-IN VOTES
1	2	3
4	5	6
7	8	9
10	11	12
13	14	15
16	17	18
19	20	21
22	23	24
25	26	27
28	29	30
31	32	33
34	35	36
37	38	39
40	41	42
43	44	45
46	47	48
49	50	51
52	53	54
55	56	57
58	59	60
61	62	63
64	65	66
67	68	69
70	71	72
73	74	75
76	77	78
79	80	81
82	83	84
85	86	87
88	89	90
91	92	93
94	95	96
97	98	99
100	101	102
103	104	105
106	107	108
109	110	111
112	113	114
115	116	117
118	119	120
121	122	123
124	125	126
127	128	129
130	131	132
133	134	135
136	137	138
139	140	141
142	143	144
145	146	147
148	149	150
151	152	153
154	155	156
157	158	159
160	161	162
163	164	165
166	167	168
169	170	171
172	173	174
175	176	177
178	179	180
181	182	183
184	185	186
187	188	189
190	191	192
193	194	195
196	197	198
199	200	201
202	203	204
205	206	207
208	209	210
211	212	213
214	215	216
217	218	219
220	221	222
223	224	225
226	227	228
229	230	231
232	233	234
235	236	237
238	239	240
241	242	243
244	245	246
247	248	249
250	251	252
253	254	255
256	257	258
259	260	261
262	263	264
265	266	267
268	269	270
271	272	273
274	275	276
277	278	279
280	281	282
283	284	285
286	287	288
289	290	291
292	293	294
295	296	297
298	299	300
301	302	303
304	305	306
307	308	309
310	311	312
313	314	315
316	317	318
319	320	321
322	323	324
325	326	327
328	329	330
331	332	333
334	335	336
337	338	339
340	341	342
343	344	345
346	347	348
349	350	351
352	353	354
355	356	357
358	359	360
361	362	363
364	365	366
36		

Form E-230 275M-8-79-152158

Block No. _____		City _____	
Prec. _____		Town _____	
Ward _____		City _____	
Block #	COL. #	NAME OF CANDIDATES	ADDRESS
OFFICES	AMB CANDIDATES	1	2
4	John H. Johnson	101 Union Ave	1
5	Alfred P. White	15 Willis Way	1
6	Jane B. Value	1 First St	1
7	Xavier Connolly	4 Anna Rd	1
8	Ruth Allison	42 Second St	1
9	Robert Smith	29 Basswood Ave	1
10	Samuel R. Parker	10 Maple St	1
11	Elizabeth Barton	14 October Rd	1
12	Joseph Long	9 Colonial Rd	1
13	Alfred P. White	15 Willis Way	1
14	Xavier Connolly	4 Anna Rd	1
15	Jane B. Value	1 First St	1
16	Carl T. Johnson	8 Center St	1
17	Alex R. Masters	44 Pine St	1
18	Mary Allston	3 Oak Road	1
19	Ruth Allison	42 Second St	1
20	Barbara Bond	64 Winter St.	1

ANNUAL TOWN ELECTION

The results of canvasses are currently recorded on Total Vote Sheets

Total Vote Wd. Prec. 1 Ci

Presiding Election Officer.

(Write titles of offices on this line)

Blank 1	COMPUTER	HAND COUNT	WRITE-IN	TOTAL	LIBRARY TRANSFER (a)	COMPUTER	HAND COUNT	TOTAL
1. MODERATOR								
2. SMITH	685	2		687	BOOKER	402	1	403
3. SCATTERING			1	1	PAGE	399	1	400
4. BLANKS	685			62	STACK	561	1	562
5. TOTAL	747	2	1	750	SCATTERING			
6. SLEUTHMAN (2)					BLANKS	134	1	135
7. JONES	490			490	TOTAL	1496	4	1500
8. ADAMS	485	1		486				
9. BAKER	504	1		505				
10. SCATTERING								
11. BLANKS	17	2		19				
12. TOTAL	1496	4		1500				
Totals								

(Write titles of offices on this line)

Blank 1	COMPUTER	HAND COUNT	WRITE-IN	TOTAL	LIBRARY TRANSFER (a)	COMPUTER	HAND COUNT	TOTAL
1. ASSESSOR								
2. Connolly			153	153				
3. Vining			73	73				
4. White			122	122				
5. Downing			22	22				
6. BLANKS	378	2		380				
7. TOTAL	378	2	370	750				
8.								
9.								
10.								
11.								
12.								
13.								
Totals								

Blanks entered in this row from computer printout were adjusted for write-in votes.

PUNCH CARD TOWNS

ANNUAL TOWN ELECTION

Total Vote _____ Wd. _____ Prec. 1 Citi

(Write titles of offices on this line)

[illegible]

TOTAL VOTE IN EACH PRECINCT ENTERED UNDER EACH OFFICE

E-21-A, 20M-10-03-175884

TOWN TOTAL

ANNUAL TOWN ELECTION

The results of canvasses are currently recorded on Total Vote Sheets

Total Vote 4067 **Wd.**

Presiding Election Officer.

(Write title of office on this line) MODERATOR					SELECTMAN - VOTE 2						ASSESSOR					
PCT #	SUITA	SCATTERING	BLANKS	TOTAL	JONES	ADAMS	BAKER	SCATTERING	BLANKS	TOTAL	WHITE WRITE-IN	VALLEY WHITE-IN	Randomly WRITE-IN	SCATTERING	BLANKS	TOTAL
Sheet 1.	899	1	93	993	662	599	697		28	1986	150	90	240	9	584	993
" 2.	960		60	1020	675	600	728	2	35	3040	220	140	300	6	354	1020
" 3.	1031	2	117	1150	801	635	800		64	3200	210	40	100	4	796	1150
" 4.	879		25	904	700	499	590		19	1808	120	35	110	2	637	904
" 5.																
" 6.																
" 7.																
" 8.																
" 9.																
" 10.																
" 11.																
" 12.																
" 13.																
Totals.	3769	3	295	4067	2838	2323	2915	2	146	8134	700	305	750	21	2291	4067

(Write titles of offices on this line)

ALTERNATE FORM

TOTAL VOTE IN EACH PRECINCT ENTERED ONCE

E-231-A. HUM-10-83-175884

TOWN TOTAL

ANNUAL TOWN ELECTION

The results of canvasses are correctly recorded on Total Vote Sheets

Total Vote 4067 **Wd.**

Presiding Election Officer.

(Write titles of offices on this line)		MODERATOR			SELECTMAN - VOTE 2				
PRECINCT #	TOTAL	SMITH	SCATTERING	BLANKS	JONES	ADAMS	BAKER	SCATTERING	BLANKS
Block 1,	993	889	1	93	662	599	697		28
" 2,	1020	760		60	675	600	748	2	35
" 3,	1150	1031	2	117	801	635	800		64
" 4,	904	879		25	700	479	570		19
" 5,									
" 6,									
" 7,									
" 8,									
" 9,									
" 10,									
" 11,									
" 12,									
" 13,									
Total,	4067	3769	3	295	2838	2333	2815	2	146

(Article title of reference not this time)

FORM E-231M

TOWN TOTAL

TOWN TOTAL

ANNUAL TOWN ELECTION

MARCH 25 1915

date of election

MIDTOWN

TOTAL VOTE _____ PAGE: _____

PCT.

clerk

warden

NAMES OF OFFICES		MODERATOR				SELECTMAN VOTE 2				ASSESSOR WRITE-IN																							
WARDS OR PRECINCTS																																	
LEVER NUMBERS																																	
NAMES OF CANDIDATES																																	
Print in rectangular slots																																	
		VOTES CAST	SMITH	1	93	JONES	ADAMS	BAKER	BLANKS	WHITE	VALUE	CASH ONLY	BLANKS																				
Machine No. <u>PET 1</u>	773		877			622	579	677		28	150	90	240	9	504																		
Machine No. <u>PET 2</u>	1030		960		60	625	600	728	2	35	220	170	300	6	354																		
Machine No. <u>PET 3</u>	1150		1031	2	117	801	635	800	64	210	40	100		4	796																		
Machine No. <u>PET 4</u>	904		877		25	700	479	570	17	120	35	110		2	637																		
Machine No. _____																																	
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For your convenience, this tally sheet may be duplicated on a copy machine.

SAMPLE TOTAL VOTE SHEET

ERROR CORRECTED

ADJUSTED - ABSENTEE BALLOTS COUNTED IN OFFICE

ANNUAL TOWN ELECTION

Precinct 1

March 25 1985
(Month and Day)

City or Town of MIDDLETOWN

Year

MODERATOR				SELECTMAN - VOTE &				ASSESSOR				LIBRARY TRUSTEE			
SMITH			BLANKS	JONES	ADAMS	BAKER	BLANKS				BLANKS	JOHNSON	TRUSTMAN	BLANKS	
Block 1, 30	2		18												
• 2, 35	1		15	35	25	30	10	Blanks under Moderator corrected							
• 3, 42			7	30	30	35	5								
• 4, 39			11	37	28	33	1								
• 5, 35			15	31	25	30	14								
• 6, 40			10	30	25	40	5								
• 7, 45	1		4	30	27	31	12								
• 8, 41			9	32	30	30	8								
• 9, 41			9	32	26	33	9								
Total AB, 307	4		88	259	216	262	64	Total blanks under Moderator corrected							
• 10, 10															
AB OFF, 20			5	18	14	10	8	Absentee ballots counted in office							
• 12, 12															
• 13, 13															
Total, 327	4		94	275	230	272	72								

SAMPLE TOWN TOTAL VOTE SHEET

CANDIDATES NOT ON BALLOT IN ALL PRECINCTS

TOWN TOTAL

ANNUAL TOWN ELECTION

ty or Town of MIDTOWN

MARCH 25 1985
(Month and Day)

		VOTE 3 T. MTC. MEMBER - PCT 1					VOTE 3 T. MTC. MEMBER - PCT 2					VOTE 3 T. MTC. MEMBER - PCT 3						
PCT #	TOTAL	McNEEMAN	SONNEN	WILSON	SCATTERED	BLANKS	ALLERS	BATES	FINNEGAN	TOMES	SCATTERED	BLANKS	WILLIAMS	ABBOTT	MAINE	SCATTERED	BLANKS	
1.	993	860	795	870		454												
2.	1020						775	750	810	715		10						
3.	1150												1140	990	1005		315	
4.																		
5.																		
6.																		
7.																		
8.																		
9.																		
10.																		
11.																		
12.																		
13.																		
TOTAL		860	795	870			775	750	810	715		10	1140	990	1005		315	

2

AFTER ELECTION DAY

NOTES

The town clerk's and registrars' work connected with a primary, preliminary or election does not end with the final announcement or declaration of the results or when the election material has been packed away in the vault or office safe. It continues for some time thereafter.

The following outlines the work which must be done or is usually done after an election day.

I. ESCROW BALLOTS [51:59A]

Escrow ballots marked at a primary, preliminary or other election, must be sealed in the escrow ballot envelope after the polls close on election day. (see ELECTION DAY, XV. AFTER THE POLLS CLOSE, C. 3. on page 147 and XIX. PACKING & SEALING ELECTION MATERIAL, A. 3. on page 224)

If the total number of escrow ballots will not change the results of the election, the escrow ballot envelope should remain sealed after the election.

Example: 5 escrow ballots were marked at a town election. The smallest difference in votes under any office between candidates who were elected and those who were not, or under any question between YES and NO, was 6 votes. The escrow ballot envelope should not be opened.

If, however, the total number of escrow ballots may change the results of the election, the escrow ballot envelope should be opened. Following town elections and under the office of town committee following a presidential primary, you and the registrars will know from the election record whether or not the escrow ballot envelope should be opened and the ballots examined. Following state primaries and elections and under offices other than town committee following presidential primaries, the state secretary will notify you if the results are close enough to require the escrow ballot envelope to be opened.

The following procedures may be used.

A. REGISTRARS TO OPEN ENVELOPE

1. When to Open Envelope

The registrars should open the envelope containing escrow ballots after the election and before the town clerk certifies

the official tally. For town elections, the town clerk certifies the official tally at the time the permanent election record is certified. (see IV. PERMANENT ELECTION RECORD on page 296) For state primaries and elections, the official tally must be certified before a copy is required to be transmitted to the state secretary and others. (see VI. ELECTION RETURNS TO BE TRANSMITTED on page 300) It is suggested that the registrars open the envelope soon after the election but wait long enough to allow proper notice to be given.

Note: If the number of escrow ballots may affect the result, the ballots should be examined and counted before the town clerk issues certificates of nomination or election after town primaries and elections and after presidential primaries. (see III. CERTIFICATES OF NOMINATION OR ELECTION on page 291)

2. Open Envelope in Public Session - Notice

The escrow ballot envelope must be opened in a public session. [51:59A] This session should be a formal meeting of the board of registrars and, to comply with the Open Meeting Law, notice of the time and place of the meeting must be filed with the town clerk and a copy posted at least 48 hours in advance. [39:23B] (see Town Clerks' Manual, Volume 2, Chapter 1, III. OPEN MEETING LAW) At least a majority of the registrars must be present.

Even though not specifically required by the General Laws or the Regulations, the persons who marked escrow ballots and candidates for the office or offices which may be affected by the escrow ballots should be notified of the meeting. If a ballot question is involved, notify a representative of the committee in favor and opposed. They are entitled to be present, to be represented by counsel and to bring witnesses if they wish. The notices may be mailed and in that case, use registered or certified mail, return receipt requested. If timing is short, also try to telephone those to whom notices were mailed. Or, if possible, the notices may be hand delivered and in that case, obtain a receipt at the time of delivery. (see sample notice on page 413 and sample receipt on page 414)

The names and addresses of all persons who marked escrow ballots will be available from the election clerk's record.

Note: None of the ballots enclosed in the escrow envelope should be opened, or for punch cards, removed from the related gray write-in envelopes until after the registrars determination under B. below has been made. At that time, only ballots or punch cards to be counted should be opened or removed from their gray envelopes.

B. REGISTRARS TO DETERMINE IF BALLOT SHOULD BE COUNTED

The registrar must determine whether or not each escrow ballot should be counted. In most cases, the person who marked the ballot could not be given a certificate under 51:59. However, the person may have marked an escrow ballot because he could not obtain an absentee voters' certificate under 54:100, because his name was already marked on the voting list or because he appeared in the wrong precinct. (see ELECTION DAY. IX. E. ESCROW BALLOTS on page 85)

1. Records Search

For persons whose names were not found on the voting list or who claimed an error in his name, address or party enrollment, voter registration and party enrollment records for at least the past 3 years will have already been searched on election day to determine that the person was not eligible to vote under the certificate procedure. (see ELECTION DAY, V. OMITTED VOTERS on page 44 and VII. ERRORS ON VOTING LIST on page 64)

Unless the registrars themselves conducted that search, they should review the procedures used. If a record which should have been searched was not, that record should be checked. In addition, the registrars may search records older than 3 years since there is no limit either in the General Laws or the Regulations on the age of records to be searched in connection with the certificate procedures. Also, the information obtained from the person on election day concerning his residence, where bank accounts are located, where his car is registered, etc. should also be reviewed. Automobile excise tax records in the tax collector's office, etc. may be searched.

If the escrow ballot was marked by a person who applied for an absentee ballot but could or would not obtain a certificate to vote in person on election day, look at the disposition sheet and checked voting list to see if his absentee ballot was cast or rejected.

It is suggested that the records with respect to each person who marked an escrow ballot be searched prior to the public session and that a written report outlining what was or was not found be prepared for the use of each registrar during the meeting.

2. Registrars May Summon Witnesses and Require Evidence

For the purposes of making a determination of eligibility to vote and deciding whether or not the ballot should be counted, witnesses may be summoned and evidence may be

required. The registrars should take care to avoid the appearance that they have predetermined an escrow voter's eligibility based solely upon their own records, particularly if their decision may be controversial or contested by candidates or their counsel. The registrars may rely on their records, but those records may not be the only evidence upon which their decision should be made. The escrow voter, candidates or counsel may also have evidence or information relevant to the voter's eligibility and they should be permitted to present such evidence.

The registrars themselves may summon witnesses and require the production of evidence if they believe it necessary. However, the registrars should also summon a witness upon request of any escrow voter or candidate for the office affected or designee for the ballot question affected, or upon request by counsel representing them. It is suggested that a signed written request be obtained. Or, the registrars may delegate the authority to summon to any notary public or justice of the peace and inform those requesting a summons of such delegation.

Forms for summonses are commercially available at a stationery store which carries regular legal forms. (see sample form on pages 415 and 416) The summons should include the documents required, if any, the time and place where the person should appear and the name and address or telephone number of the summoner so that the person summoned will know whom to contact if he has questions about the documents or testimony required or about his attendance at the meeting.

The summons should be given to a constable or deputy sheriff for service. After he has served it, he should complete the return of service and give it to the registrars or summoner, as applicable. If it was impossible to serve the summons, the constable or deputy sheriff notes that on the form before returning it. A summons must be served before the time scheduled for the registrars meeting but should be served earlier if possible.

Witnesses summoned must be paid the same fees and are subject to the same penalties for default as witnesses in civil cases before the courts. (see 233:8)

It is suggested that registrars obtain advice from town counsel on the proper procedures for summoning, witness fees, etc., particularly if they have not previously been involved in such a proceeding. They may also wish to have town counsel present at the session.

3. Evidence and Testimony

Evidence presented may be in the form of written documents or verbal testimony. Each ballot should be acted upon separately, one at a time. The registrars should announce the name and address of the escrow voter and then ask if anyone wishes to speak.

Each counsel present should be permitted to make a presentation, call and question witnesses, cross-examine escrow voters and witnesses called by others and present written evidence. An escrow voter or candidate not represented by counsel should be permitted to do the same. The registrars may also ask questions related to the voter's eligibility and present the information found in their own records so that it becomes part of the record of the meeting, but should act in a judicial capacity rather than being participants in the controversy.

a. written evidence

Written evidence presented to establish an escrow voter's eligibility might be the same as that listed as acceptable under ELECTION DAY, V. OMITTED VOTERS, A. 3. a. suitable written identification on page 48 which he may have been unable to produce on election day. Other evidence might be a voter registration card issued in the past, particularly if accompanied by utility bills, rent receipts, bank statements, etc. for the years since the card was issued.

If the escrow voter was refused a certificate because his identity was questionable, evidence presented might be a certified copy of his birth or marriage record. A picture I.D. containing his signature as well as his name and current address might be suitable. In this case, the registrars could require that he sign his name at the meeting and compare the signatures. A written notarized statement signed by someone personally known by the registrars, attesting to the person's identity might be acceptable. However, statements made in person under oath would be better evidence.

b. verbal evidence

Evidence presented may also be verbal testimony given by the person claiming eligibility, candidates or by other witnesses. In this case, an oath should be administered to each person before he gives such testimony. The oath may be administered by the chairman or another member of the board of registrars. The oath would be similar to or the same as that given to witnesses in court. (see 233:8)

SAMPLE OATH

Do you solemnly swear that the testimony you are about to give is the truth, the whole truth and nothing but the truth, so help you God?

Such verbal evidence to support eligibility might be the statement of a next door neighbor that the person has had continuous residence in the town or, if identity is questioned, a sworn statement by the neighbor that the person is, in fact, who he claims to be. For a voter whose name was already marked on the voting list at the time he appeared at the polls, evidence to support that he had, in fact, not voted might be the testimony of election officers on duty at the check-in table on election day.

4. Registrars to Vote on Each Ballot

After all available information has been obtained from the records, the written evidence presented and the testimony given, the registrars should take a formal vote on whether or not each person's ballot should be counted. The vote should be based upon all the evidence and taken immediately after it has been presented. The clerk should record the name and address of each person who marked the escrow ballot and how each registrar voted. A form may be used for this record. (see sample form on page 359)

Unlike a challenged ballot, the presumption is that an escrow ballot should not be counted and the burden to prove otherwise rests upon the escrow voter, the candidates, ballot question designees or their counsel who are present at the meeting. If the registrars' vote results in a tie, the escrow ballot should not be counted.

Note: If a person marked an escrow ballot because he could not obtain a certificate under 54:100 and the records show that his absentee ballot was not cast or rejected, his escrow ballot should be counted.

C. REGISTRARS TO COUNT ELIGIBLE BALLOTS

After the determination on all ballots has been made, the registrars should count only the ballots of those determined eligible to be counted. They should be counted in the same way that paper ballots are counted at the polls or punch card ballots are hand counted at the tabulation center on election day, except that regularly appointed election officers or tellers are not required.

(see ELECTION DAY, XVI. COUNTING BALLOTS, B. 7. on page 164 and D. 3. e. (2) on pages 211-214)

A regular block tally sheet may be used except that the words ESCROW BALLOTS should be entered at the top and the date the ballots are counted should also be entered. A separate block tally sheet should be used for each precinct. In primaries, separate block tally sheets will be needed for each party. If there are only one or two ballots to be counted, the votes may be added directly on the total vote sheet and a block tally sheet is not required.

The ballots should be counted even if there are too few to affect the results of the election. There is no need to deposit the ballots in a ballot box before counting even if an extra box is available. 51:59A is not specific with respect to whether the entire ballot or only that office or question which might be affected should be counted. The ballots may be counted either way, but it is preferable to count only the office which might be affected.

It is suggested that all paper ballots to be counted be unfolded and placed in a pile with the inside up. In punch card towns, the ballot cards to be counted, each in its related gray write-in envelope, should be piled up so that the name and address of the escrow voter entered on the envelope cannot be seen. To protect the voter's right to a secret ballot, the name of the person who marked the ballot should not be announced prior to counting it nor should anyone present at the meeting be permitted to see the outside of a ballot or the outside of a gray write-in envelope containing the voter's name. However, if only one escrow ballot is to be counted, it will be impossible to keep secret how that person voted.

After a punch card ballot is counted, it should be placed back in its related gray write-in envelope since escrow ballots will be examined again by the registrars at a hearing during a recount. (see XI. RECOUNTS, G. 5. on page 386)

The persons who actually count the ballots should sign the block tally sheet(s) used to record the votes. The registrars should also sign the block tally sheet.

D. REPORT NUMBER OF VOTES TO TOWN CLERK

The registrars must report to the town clerk the number of votes for each candidate and the blanks under each office counted and the number of YES and NO votes and blanks under each question counted, if any.

This report may be the block tally sheet or if no block tally sheet is used, it may be a verbal report which is then entered by the town clerk on the total vote sheet.

E. TOWN CLERK TO AMEND ELECTION RECORDS

The votes reported by the registrars must be added to the votes cast on election day and the totals adjusted accordingly. They may be added directly on the town total vote sheet. However, in towns voting by precinct, they should first be entered on the precinct total vote sheet, then on the town total vote sheet.

The election clerk's certificate on the total vote sheet and the election record should also be amended to include the number of escrow ballots counted. Cross out information to be corrected and enter the new information next to it. Add a signed statement explaining why the changes were made.

Note: The name and address of an escrow voter whose ballot was counted should be added to the voter registration records or the appropriate corrections should be made, as applicable. (see VII. PROCESS CERTIFICATES & NOTES on page 311)

F. ESCROW BALLOTS TO BE SEALED

The uncounted escrow ballots should be resealed in the manila escrow ballot envelope. These ballots should not have been opened at any time during the proceedings. It is suggested that the number of ballots shown on the outside of the envelope be adjusted, if necessary, by subtracting the number of counted escrow ballots. Add a signed note stating "[#] of escrow ballots counted [date]."

The counted escrow ballots, should be sealed in a separate envelope. Enter the type of election, the date of the election, the precinct number, the words COUNTED ESCROW BALLOTS and the number of ballots on the outside of the envelope. The registrars should sign a certificate entered on the outside of the envelope as shown in the sample below:

SAMPLE CERTIFICATE - COUNTED ESCROW BALLOT ENVELOPE

This is to certify that this envelope contains
escrow ballots counted on [date] in accordance
with the provisions of Ch. 51, s. 59A G.L.
Precinct [#].

Registrars of Voters of [town]

Both envelopes should be placed in the vault or safe. Escrow ballots will be needed at a recount and are subject to being counted by a court order. They should be retained, preserved and destroyed the same as the ballots cast. (see XII. RETAINING ELECTION MATERIAL on page 404)

G. MINUTES OF MEETING

Meeting minutes should be prepared by the clerk the same as for other formal meetings of the board. Include the date, time, place and purpose of the meeting; that notice was properly posted, filed and given to persons who marked escrow ballots and to candidates for the affected office or ballot question representatives. Include the names and addresses of witnesses summoned, attorneys, if any, and of others present at the meeting and include the type of written evidence and a summary of the testimony presented by each.

Also include the details of the registrars' determination in each case including how each registrar voted and the reasons. If a form is used, it may be incorporated by reference and attached to the minutes.

II. ABSENTEE BALLOTS RECEIVED LATE [54:95,99] (see also ABSENTEE BALLOTS in Volume 3 of this series)

Absentee ballots received by the town clerk after the hour fixed for the closing of the polls on the day of an election shall be retained by him unopened. Such ballots cannot be counted and must not be opened or examined at any time. They must be retained for the same period as cast ballots and then destroyed. [54:99] Be certain to time stamp or note the date and hour of receipt on the outside of the envelope for all ballots received after election day.

After a November state or presidential election only, certain absentee ballots received late must be processed and counted as outlined in the following:

A. LOCATION AND DEADLINE FOR MAILING [54:99]

The ballot must be mailed from outside the United States. Since both Alaska and Hawaii are states, absentee ballots received from those locations must be received by the close of the polls to be counted even though neither are contiguous to the rest of the states. However, ballots mailed to A.P.O. and F.P.O. addresses would be mailed to and received from locations outside of the United States even though the city given in the address is within the United States. Each ballot received after the close of the

polls for a November state or presidential election should be examined carefully to determine the location from which it was mailed.

The ballot must also be mailed back to the town clerk on or before the day of the election. A post mark, if legible, shall be evidence of the time of mailing. If the post mark is not legible, but the ballot was received within a day or two after the election, it can usually be assumed to have been mailed in time.

Whether or not a ballot received several days after the election was mailed by the deadline may depend upon where it was mailed. For example, ballots from parts of Africa or the mid-east countries may take two to three weeks to reach Massachusetts.

If there is doubt about when the ballot was mailed, the ballot should be rejected as defective. The ballot envelope will be examined again by the registrars at a recount if one is held, and may be examined by a court if the election is contested. (see XI. RECOUNTS G. 6. on page 392) In that case, the court will decide whether or not the ballot should be counted. However, if you do not reject the ballot, there will be no means of separating the ballot from other counted ballots should a court decide at a later time that the ballot should not have been counted.

B. DEADLINE FOR RECEIPT [54:99]

The ballot must be received in the town clerk's office within 10 days following the election. For example, if the state election was held on November 6th, the ballot must be received by November 16th.

It is suggested that on the 10th day after the election, you arrange with the post office for delivery or pick up of any ballots which arrive at the post office in the last mail of the day the same as for absentee ballots on election day.

If a ballot is received after the 10 day deadline has expired, it should be treated the same as a ballot received after the close of the polls from a location inside the United States. It should not be processed nor opened even if the postmark clearly indicates it was mailed on or before election day.

C. PROCESS BALLOTS - EXAMINE AFFIDAVITS [54:95] (see ABSENTEE BALLOTS, VII. PROCESS ABSENTEE BALLOTS in Volume 3 of this series)

Those ballots mailed and received in accordance with A. and B. above should be processed by the town clerk by examining the affidavit on the inner ballot envelope using the same procedures as are

used for absentee ballots received on election day. [54:95] Ballots must be processed in public and if observers have been appointed by the two town committee chairmen, they must be permitted to be present. (see 54:94) Note, however, that voters outside the United States are not required to have their absentee ballots witnessed. The voter's signature on the ballot envelope should be compared to his signature on the application.

Guidelines for rejecting these absentee ballots are the same as for other absentee ballots. Rejected ballots should be marked REJECTED AS DEFECTIVE on the outside of the return envelope and kept separate from accepted ballots. It is suggested that a separate disposition sheet be prepared if the original sheet was sealed in a fibreboard box on election night instead of opening the box.

The General Laws do not specify when processing should begin. However, since ballots received through the 10th day following the election must be counted unless rejected, it is suggested that the processing not begin until after that deadline has expired.

Note: The town clerk should process the ballots to determine whether they are to be accepted or rejected even though 54:95 states that the ballots should be processed in the office of the registrars. The registrars are required to review all rejected absentee ballots during a recount and if they process these ballots, they would then be reviewing their own work.

D. COUNTING BALLOTS

All accepted ballots must be counted in the registrars' office. It is suggested that counting not begin until after the 10 day deadline has expired and that the ballots be counted immediately after the examination of all affidavits has been completed.

1. Preliminary Procedures

The procedures to be used are similar to those used for absentee ballots at the polling place. (see ELECTION DAY, XIII. PROCESSING ABSENTEE BALLOTS AT THE POLLS on page 134) The name and address of the voter must be announced, the inner ballot envelope opened and the ballot removed. However, the ballots are not required to be deposited in a ballot box before being counted. They may be deposited if an extra box is available. A box used on election day should not be unlocked and used for this purpose.

The voting list or list of non-registered specially qualified voters should be marked to show that the ballot was cast. It is suggested that the mark be made using a different color from that used on election day. The voting list envelope

received from the polls on election night will have to be unsealed and the list(s) removed for this purpose.

The procedures should be conducted in public to permit an opportunity for the ballot to be challenged before it is counted. If a ballot is challenged, follow the procedures outlined under ELECTION DAY, IX. D. CHALLENGED BALLOTS on page 80 except that a registrar should enter the required information on the outside of the ballot and no oath can be administered since the voter is not present.

2. Count Ballots

The ballots should be counted using the same procedures as used at the polls for paper ballots or, in punch card towns, for hand counting punch card ballots, except that regularly appointed election officers or tellers are not required. (see ELECTION DAY, XVI. COUNTING VOTES, B. 7. through 12. on pages 164-172 and D. 3. e. (2) on page 211)

The votes should be recorded on a block tally sheet prepared the same as that used for paper or hand counted punch card ballots, except that the words LATE OVERSEAS BALLOTS, or some similar words, should be entered at the top and both the date of the election and the date on which the ballots were counted should be added. The persons who actually counted the ballots should sign the block tally sheets.

If the town voted by precinct, the ballots must be counted separately by precinct.

However, if there are only one or two ballots, a block tally sheet may not be needed and the votes may be added directly on the total vote sheet.

E. AMEND RECORDS

1. Total Vote Sheets

The total number of votes counted on the overseas absentee ballots must be entered on the total vote sheets. In towns voting by precinct these votes must be entered on each precinct total vote sheet.

Enter the absentee ballot votes in the appropriate columns for candidates including write-in or scattering, blanks and total and for ballot questions under YES, NO and blanks. These may be entered in a row not used on election night for tallying votes. Enter OVERSEAS A.B. or LATE A.B. in the first column of the row being used.

Recalculate the totals and enter the new totals in the blank row under the original totals.

In towns without precincts, the votes should be entered on the town total vote sheet and in towns voting by precincts, amended precinct totals should be transferred to the town total vote sheet.

A note should be added to the total vote sheets as shown in the sample below:

SAMPLE

This total vote sheet has been amended to include the votes cast on [#] of absentee ballots received from overseas voters and counted on [date] in accordance with Ch. 54, s. 95 and 99 G.L.

Registrars of Voters of [town]

2. Official Return Book

The official return book (election or precinct clerk's record) for each precinct should be amended after the ballots have been counted.

Amend in the record, the total number of ballots cast, the number of names checked on voting lists and the total number of absentee ballots cast. If the number of votes cast for each candidate and question is included in the record, these numbers should also be amended.

In amending the record, do not erase any original entries. It is suggested that a line be drawn through the original entry and the new figures be entered next to it.

It is also suggested that the registrars add and sign a statement similar to that shown in the sample below. If a bound election record book is used, enter the statement at the end of the record under the election or precinct clerk's signature. If separate printed pages are used for the election record, enter the statement directly on the page showing the total number of ballots cast, the number of names marked on the voting list, etc. if possible, or attach a separate sheet.

SAMPLE AMENDMENT TO RECORD BOOK

State [Presidential] Election: [date held]

Late overseas ballots counted on [date]

Number of ballots counted: [#]

The number of names marked on the voting lists as having voted, the total number of ballots cast, and the total number of absentee ballots cast appearing in the election clerk's record have been amended to include the ballots received from outside the United States within 10 days after the election and counted as provided in Ch. 54, s. 95 and 99, G.L.

Registrars of Voters

F. SEAL COUNTED BALLOTS

After the ballots have been counted, they should be placed in a block envelope. If block tally sheets are usually sealed with cast and counted ballots, the block tally sheet should also be placed in the envelope.

Enter on the outside of the envelope, the type of election, the date and the precinct number, if any. In addition, enter LATE OVERSEAS BALLOTS, or similar words and the date the ballots were counted. Enter the number of ballots on the appropriate line.

The space after BLOCK NO. may be left blank unless, under very unusual circumstances, there were enough of these ballots so that they were divided into more than one block.

Then seal the envelope. The persons who counted the ballots should add their signatures. The registrars should also sign the envelope. The envelope should be placed in the vault or office safe.

The envelopes and applications related to counted ballots may be sealed in a separate clearly marked envelope or kept together with an elastic. They should be placed in the vault or office safe.

G. SEAL VOTING LIST

The voting lists should be placed back in the manila envelope and the envelope resealed. If the number of names marked on the lists was entered on the outside of the envelope at the polls, that number should be amended to include the new names marked. Enter "Number of names marked amended to include [#] overseas ballots counted on [date]," or words to that effect.

It is suggested that a statement similar to that shown in the sample below be added on the outside of the envelope.

SAMPLE STATEMENT

Date [when ballots were counted]

This envelope was opened for the purpose of marking on the voting list, the names of overseas voters whose absentee ballots were counted under the provisions of Ch. 54, s. 95 and 99, G.L. After being marked, the list was resealed by the registrars.

Registrars of Voters of [town]

The sealed envelope should be placed in the vault or office safe.

H. REJECTED BALLOTS

The rejected ballots and the related applications may be placed in an envelope or kept together with an elastic and should be securely kept in the vault or office safe as long as the counted ballots are kept.

III. CERTIFICATES OF ELECTION OR NOMINATION

A certificate of election may be issued to successful candidates following a town election and must be issued to successful candidates for town committee following a presidential primary. A certificate of nomination must be issued to successful candidates following a town primary. In each case, however, such certificates should be issued only to

those candidates deemed and declared elected or nominated. (see ELECTION DAY, XXIV. DECLARE CANDIDATES ELECTED OR NOMINATED on page 249 and 50:2)

A. TOWN ELECTIONS

There is no requirement in the General Laws that the town clerk issue a formal certificate of election to the successful candidates following a town election. However, this is done in some towns by custom or tradition. A certificate similar to that shown in the sample below may be used.

SAMPLE CERTIFICATE

TOWN OF MIDTOWN
ANNUAL TOWN ELECTION
March 25, 1985

This is to certify that John L. Smith was duly elected to the office of Selectman for a three year term at the Annual Town Election of March 25, 1985.

TOWN
SEAL

Signature _____
Town Clerk

March 29, 1985

In some towns, the certificate is typed on the town clerk's letterhead paper and a gold notarial seal on which the raised town seal has been stamped is affixed. In some towns, a commercially available certificate card is used. (see sample card on page 417)

A certificate may be issued even if the results are close and a recount is likely. 54:135 contains procedures to be used if a different person is found to be elected after the recount. However, if the escrow ballots may change the results of an election, wait until after the determination has been made by the registrars and escrow ballots have been counted before issuing the certificate to the candidate who may be affected.

Note: If a tie vote results in a failure to elect, no certificate should be issued. The vacancy may be filled under 41:10 or 11. (see Note: under ELECTION DAY, XXV. DECLARE CANDIDATES ELECTED OR NOMINATED on page 250)

B. TOWN PRIMARIES [53:3,40,62,64]

After a town primary, the town clerk shall canvass the returns of votes, determine the results, and issue proper certificates thereof to the successful candidates. [53:64]

The General Laws do not specify when the certificate must be issued. You may wait until after a recount has been held or the deadline for a recount has passed. If the number of escrow ballots will affect the results of the primary, wait until after escrow ballots have been counted before issuing a certificate to a candidate who may be affected.

Before issuing a certificate to a write-in candidate in a primary, be certain that he has received a number of votes at least equal to the number of signatures required to place a name in nomination. [53:40] Also, the town clerk must notify such a candidate that he must file a written acceptance of the nomination with the town clerk within 6 days following 5 P.M. on the day the primary was held. [53:3]

Note: If a tie vote results in a failure to nominate, no certificate should be issued. The vacancy is filled by the appropriate town committee which must choose one of the candidates receiving the tie vote. [53:62]

The General Laws do not specify the form of the certificate. It may be similar to the sample shown under A. on page 292 except that the certificate title would be changed to PRIMARY OF [NAME] PARTY and the term "nominated" should be used instead of "elected." Also no term of office would be included.

C. TOWN PRELIMINARY ELECTIONS

A certificate of nomination is required only if so stated in the town's special act or charter provisions governing preliminary elections.

D. PRESIDENTIAL PRIMARIES [53:40,70F,70G]

1. Certificates

After a presidential primary, the town clerk shall determine the results of votes for members of town committees and issue proper certificates thereof to the successful candidates. [54:70F]

The General Laws do not specify when the certificates must be issued. You may wait until after a recount has been held or the deadline for a recount has passed. If the number of escrow

ballots will affect the results of the primary, wait until after escrow ballots have been counted before issuing a certificate to a candidate who may be affected.

Before issuing a certificate to a write-in candidate, be certain that he has received at least 5 votes, the number equal to the number of signatures required on nomination papers for town committee candidates. [53:40]

The General Laws do not specify the form of the certificate and it may be similar to that shown in the sample under A. on page 292. In this case the term "elected" should be used and the term of 4 years may be included. The certificate title should be changed to PRESIDENTIAL PRIMARY OF DEMOCRATIC [REPUBLICAN] PARTY. The title of the office would be Democratic [Republican] Town Committee.

Note: If a tie vote results in more than the permitted number of candidates being elected, a certificate should not be issued to the candidates receiving the same number of votes. [50:2] In this case, the elected members of the town committee may, at the organizational meeting following the presidential primary, elect a member to fill the vacancies caused by the tie vote. The person elected must be one of the candidates receiving the tie vote. [53:70G]

2. Notices

In addition, 54:70F requires that the town clerk notify the chairman of each town committee and the chairman of each state committee of the successful candidates. Include in the notice the name and address of each successful candidate.

The General Laws do not specify when the notice must be sent. However, the town committees must meet and organize within 40 days after the presidential primary and the chairmen will need the notice in time to be certain all successful candidates have proper notice of the organizational meeting. (see 52:5)

You should have the name of the each town committee chairman on file in your office since the secretary of each town committee must file this information with you. Each time a new chairman is chosen, his name must also be filed. (see 52:5,6)

If you do not know the name and address of the chairman of each party state committee, contact the town committee chairman or the Elections Division, 727-2828 or 1-800-462-8683, to obtain the information.

IV. PERMANENT ELECTION RECORD [54:105] (see sample record on page 419)

Upon receipt of the total vote sheet certified by the election clerk, the town clerk shall forthwith enter it in his records. [54:105] However, first check the sheet to be certain it is correct. (see ELECTION DAY, XXIII. TOWN TOTAL VOTE SHEET, B. on page 242)

In most towns, the election record is prepared on minute book paper since it is a permanent record of the town. Such a record should be prepared for all primaries, preliminaries and elections held in the town.

In many towns, the election record for all primaries and elections is included in the same volume as or as part of the town meeting records. (see Town Clerks' Manual, Volume II, Chapter 1, I. TOWN MEETINGS)

A. FORMAT

The General Laws do not specify the format to be used for the election record. It is suggested that you check previous records in your town to determine the traditional format. You may change the format if you wish. However, if the town voted by precincts, the record of the votes in each precinct should be shown separately.

B. WHEN PREPARED

The permanent election record should be prepared after the town total vote sheet has been completed. However, if escrow ballots are to be counted or if overseas absentee ballots are to be counted following a November election, wait until after these votes have been entered on the town total vote sheets before preparing the permanent record. (see XI. RECOUNTS, I. 2. on page 400 for amending the permanent election record following a recount)

C. INFORMATION TO BE INCLUDED

Except as noted under each item, the following should be included:

- the type and date of the election
- the location of the polling place or places
- the hour the polls opened and closed. The title of the person who opened and closed the polls may be included.

- the number of voting booths, marking units, or voting machines used in each polling place may be included
- the total number of ballots cast. The number of absentee ballots cast may be stated separately. The total number of ballots cast does not need to be repeated under each office and question.
- if escrow ballots and for November state elections, if overseas absentee ballots were counted after election day, the number of each type of ballot should be stated.
- that the results were publicly announced and the title of the person who made the announcement. The hour the results were announced may also be included.
- the title of each office. Additional information such as, the term of office, the number to be nominated or elected or when applicable, that a vacancy is to be filled is usually included.
- the name of each candidate under each office, including write-in candidates, and the number of votes each received
- the word "scattering" or "all other," if used on the town total vote sheet, and the number of votes in that category
- the number of blanks cast under each office
- each question by number. For questions on state election ballots, the title of the question appearing in the Information For Voters pamphlet and the words "This question is not binding," if applicable, may be included. For questions on town election ballots, a title may also be included, such as "Acceptance of Ch. 32B, s. 9A, General Laws (group insurance - paying premiums for retired employees)"

Note: If a title is included, you will not need to refer back to the warrant to answer such questions as "What was the vote on the bottle bill question?" "What was the vote on the insurance question at the last town election?" Usually the person asking for information remembers the title or subject but not the question number.

- the number of YES and NO votes and the number of blanks under each question
- if the ballot box had to be opened during the election, this fact and the reason may be included.

The office titles and candidates' names should be entered in the permanent election record as they appeared on the ballot or for

a write-in candidate, as he is registered, if known. The number of votes and blanks should be entered as shown on the precinct total vote sheet and the town total vote sheet. (see ELECTION DAY, XXIII. TOWN TOTAL VOTE SHEET on page 240)

D. CERTIFICATION

Under the last entry, the town clerk should certify the record as follows:

A true record, Attest:

Signature
Town Clerk

E. RECOUNT REFERENCE

If a recount was held following the primary or election, it is suggested that a reference be made to the recount record giving the page number so that those reading the permanent election record will be certain to check the recount record as well. This reference may appear as a note near the beginning of the election record or after the certification.

F. PENALTY [56:18]

The penalty for failing to make a record of the votes cast in a primary or election is a fine of not more than \$200.00.

V. EXAMINING THE CHECKED VOTING LIST

A. TO RESOLVE DISCREPANCIES IN BALANCE

If a discrepancy in the balance between the number of names marked on the checked voting list and the number of ballots cast cannot be resolved on election night in spite of diligent efforts, the voting list may be unsealed and the number of names counted again by the town clerk or his employees in the office after the election. Such a count often resolves the problem.

In this case, the voting list envelope must be unsealed and the list removed. If an error is found in the numbers entered at the bottom of the page or column on the list or on the count form, cross out the number and enter the correct number. Do not erase

any numbers entered by the election officers who originally counted the list.

Following the count, the checked voting list must be resealed in its envelope. Enter a note on the outside of the envelope such as "Voting list unsealed on [date] at [hour] for the purpose of recounting the names marked. List resealed on [date] at [hour]." Add your signature and title.

If the number of names marked on the list has been entered on the outside of the envelope, correct the number, if necessary, and note next to the entry "corrected on [date] after names recounted." Add your initials. Do not erase the original entries.

Return the sealed voting list envelope to the vault or office safe.

Also, a note, such as "number of names marked on voting list recounted on [date]: correct number is [#]" should be entered on the total vote sheet next to the election clerk's certificate. Do not erase the original entry. Add your signature and title.

B. AMENDMENT FOR ABSENTEE BALLOTS COUNTED IN OFFICE

If absentee ballots received on election day have been counted in the office, the voting list must be amended by marking the names of those voters. (see ELECTION DAY, XXIII. TOWN TOTAL VOTE SHEET, C. ABSENTEE BALLOTS COUNTED IN OFFICE on page 244)

For November state elections only, the checked voting list must be amended by marking the names of voters whose ballots were received from outside the United States and counted after election day in accordance with 54:95 and 54:99. (see II. ABSENTEE BALLOTS RECEIVED LATE on page 285)

C. PUBLIC EXAMINATION/COPY OF CHECKED VOTING LIST [54:108]

At any time after the election, upon written request of any person, the town clerk shall, within a reasonable time, open the envelope in which the voting list has been enclosed and provide a copy or permit the list to be examined and copied. Note that access to the checked voting list is not limited to candidates or their representatives.

When such a written request is received, time stamp it or note the time and date of receipt. Keep the receipt in your files or in the voting list envelope at least until the deadline for keeping the voting list sealed has expired.

The time limit within which the town clerk must act and the fees to be charged are governed by the Public Access Regulations 950 CMR 32.00 promulgated by the State Supervisor of Public Records. (see also Town Clerks' Manual, Volume II, Chapter 3, 1. FILING, RECORDING, INDEXING)

1. Time Limit

The town clerk must comply with a request as soon as practicable but within ten days. [Regs. 32.05(2)]

2. Copy to be Provided by Town Clerk

Upon the payment of a reasonable fee, the town clerk shall furnish a copy of the checked voting list.

If the voting list can be copied using the office copier, not more than 20 cents per page may be charged plus a prorated fee of not more than \$6.00 per hour if copying takes more than one-half hour. If, the voting list is too large to be reproduced using ordinary means of reproduction, the actual cost incurred in providing the copy may be charged. [Regs. 32.06]

Note that you are not required to provide the copy by actually transferring the marks made on the check list to another copy of the voting list.

3. Examination/Copy Made by Public

If the person requests it, he must be permitted to examine the check list and make a copy himself. In this case, the town clerk may require him to work under reasonable supervision.

You should not permit the checked voting list to be removed from the office area at any time during the examination and should provide sufficient supervision to prevent pages from being removed or marked. Inform each person examining the checked list that he must not make any marks on or damage it in any way. In many towns, the person is required to work at a table within the clear sight of office personnel.

Usually those asking to examine and copy the checked list are candidates' workers. They often work in teams, one reading the marked names from the check list and the other marking the name on another copy of the voting list. Unless several teams of workers are available, more than one day may be required to complete the work. In this case, be certain that the voting list is placed back in the envelope and in the vault or office safe before the office closes for the night.

54:108 prohibits assessing any charges to a person who simply examines the check list or who examines the list and makes the copy himself.

4. Reseal Checked Voting List

After the checked voting list has been examined or copied, the town clerk must at once enclose and seal it in an envelope. In addition, the town clerk must certify on the envelope the identity of the enclosed list. It is suggested that the following form be used.

SAMPLE CERTIFICATE AND NOTATION

This is to certify that this envelope contains the checked voting list used at the [type of primary or election] held on [date], that this envelope was opened on [date] for the purpose of providing a copy of [public examination of] said list and that the envelope was resealed at [hour] on [date].

Your signature
Town Clerk

Note: In most towns, the voting list is placed in the same envelope in which it was received from the polls on election night. In that case, the certificate already on the envelope would identify the contents and only the phrase following the comma in the above certificate will be needed.

Each time the envelope is opened and resealed, a certificate and notation should be entered on the outside and the sealed envelope should be returned to the vault or office safe until after 30 days following the primary or election when it should be turned over to the registrars. (see 53:37 and 54:109) After that time, the checked voting list does not need to be kept sealed and can be made available for public examination or for copying without going through the resealing procedures outlined above.

VI. ELECTION RETURNS TO BE TRANSMITTED

Following each state primary and election, the presidential primary and the annual town election, the election returns are to be transmitted to the state secretary and others. The General Laws do not specify how the returns are to be transmitted. They may be hand delivered or

mailed. It is suggested that all returns transmitted by mail be sent certified with a return receipt requested.

For each return, be certain that you proofread the information entered and that each is signed and sealed in the appropriate envelope before it is forwarded. The returns should be completed and forwarded as soon as possible after the primary or election and in some cases as noted below, the deadline for making the return is specified in the General Laws.

A. TOWN ELECTIONS [41:15,19A] (see also, Town Clerks' Manual, Volume II, Introduction and Chapter 2)

1. List of Town Offices to State Secretary [41:15] (see sample form on page 419)

Immediately after every annual election of town officers, the town clerk must transmit to the state secretary, a complete list of all town officers elected and qualified. Blank forms, provided by the state secretary prior to the annual town election each year, must be used for this purpose.

Note: An official is "qualified" by taking the oath of office, swearing that he will faithfully and impartially perform his duties.

At the top of the form on the lines provided enter the name of your town, the date of the election and your signature. In the first column enter the title of the office as it appeared on the ballot. In the second column, enter the name of the person elected as it appeared on the ballot or, for a write-in candidate, as he is registered. In the third column, enter the date the term expires, including month, day and year.

The completed and signed forms should be forwarded to the Elections Division, One Ashburton Place, Room 1705, Boston 02108.

In addition, the town clerk must notify the state secretary of any changes in elected town officials which may occur during the period between town elections. This notice may be in letter form.

2. Names of Selectmen and Town Clerk (see sample form on page 420)

Prior to each annual town election, you will also receive a form for reporting the names of the selectmen and the town clerk. Enter the name of your town, the name of the chairman and each member of the board of selectmen and the date each person's term expires. Also enter the name of the town clerk

and both the business and home telephone numbers. If the town clerk was elected to a new term or for the first time, enter the name, date the term expires and home telephone number. Then sign the form.

Since the name of the chairman of the board of selectmen is required, it is suggested that you wait to complete and forward the form until after the board of selectmen has reorganized, provided the reorganizational meeting occurs soon after the election. Otherwise, enter the name of the current chairman.

The form should be forwarded to the Elections Division at the address given under 1. on page 302.

3. Name of Constable to Clerk of Courts and Sheriff [41:15]

Within 7 days after an elected constable has been qualified, the town clerk must make a return of his name to the clerk of courts and to the sheriff of the county (except in Suffolk County). This return may be in letter form unless you receive a printed form from the clerk of courts or sheriff of your county.

4. Certificate of Election of Town Clerk to State Secretary
[41:19A]

Upon the election of a town clerk, the chairman of the board of selectmen must execute and file with the state secretary a certificate of election. The certificate must specify the date of the election and the date on which the term of office will expire. Note that an incumbent town clerk's term does not expire until the 7th day after the town election held in the year in which the term is to expire. (see 41:107)

A statement, signed by the town clerk, that he has entered upon his official duties must be attached to the certificate.

The certificate and statement should be forwarded to the Office of the Secretary of State, Public Records Division, Commissions Section, One Ashburton Place, Room 1703, Boston 02108. A copy should be kept on file in your office.

SAMPLE CERTIFICATE AND STATEMENT

Date_____

This is to certify that [name of clerk] was duly elected to the office of Town Clerk of the Town of [name] on [date] for a three year term to expire on [date]

Signature
Chairman, Board of Selectmen

This is to certify that I was sworn to the faithful performance of the duties of my office and entered upon my official duties as Town Clerk on [date].

Your Signature
Town Clerk

5. Housing or Redevelopment Authority [121B:5]

As soon as possible, after the qualification of a member of a housing or redevelopment authority, the town clerk shall file a certificate of election (or appointment) with the Department of Community Affairs and a duplicate thereof with the state secretary. Whenever the membership of the authority is changed by appointment, election, resignation, or removal, a certificate showing the change of membership must also be sent.

This certificate may be in the form of a letter. Address one copy to the Department of Community Affairs, 100 Cambridge Street, Boston 02202. Address the other copy to Office of the Secretary of State, Public Records Division, Commissions Section, One Ashburton Place, Room 1703, Boston 02108. Note that the duplicate certificate should be sent to the state secretary even though the name of an elected member of the authority will also appear on the list forwarded to the Elections Division under 1. on page 301.

6. Ballot Questions

There are some sections of the General Laws which require the town clerk to transmit the results of votes on questions appearing on a town election ballot. In each vote certificate forwarded include the date of the election, the text of the question, number of YES and NO votes cast and the number of blanks.

Examples of general law sections requiring certificates to be forwarded are as follows:

a. regional school district indebtedness [71:16(n)]

A regional school district may incur debt not exceeding an amount approved by the emergency finance board, provided that the vote of the district committee is approved by a majority of the registered voters in the member towns voting on the question at an election called by a warrant signed by a majority of the members of the district committee. Such an election is usually separate and apart from the annual town election but the question could be included on a town election ballot.

In this case, the town clerk of each town within the district shall certify the results of the vote on the question to the district committee.

b. horse or dog racing meetings [128A:14D; 1985:353]

A certified copy of the results of a vote on a question submitted to the voters relative to granting a license for a horse or dog racing meeting or horse or dog races at fairs, shall be sent to the State Racing Commission. If the question appears on the state election ballot, the certificate is sent by the state secretary (see 128A:14). If the question appears on a town election ballot, the certificate is sent by the town clerk (see 128A:13A).

There is no special form for this certificate. It may be typed on regular town clerk's letterhead paper or on vote certificate paper. Forward the certificate to the Racing Commission, One Ashburton Place, 13th Floor, Boston 02108.

c. discontinue local mass transportation service [MBTA]
[161A:15]

Under certain circumstances outlined under 161A:15, a question relative to discontinuing MBTA service may appear on a town election ballot. As soon as possible after the election, the town clerk must notify the Massachusetts Bay Transportation Authority of the result of the vote. There is no special form for this notice. It may be typed on town clerk's letterhead or on vote certificate paper. Forward the certificate to the Massachusetts Bay Transportation Authority, 10 Park Plaza, Boston 02116.

d. regional transit authority [161B:15]

If the town is a member of a regional transit authority, a question relative to continuing membership in the authority may be placed on a town election ballot. As soon as possible after the election, the town clerk must notify the authority of the result of the vote. There is no special form for this notice. It may be typed on town clerk's letterhead or on vote certificate paper. Forward it to the office of the regional transit authority of which the town was a member.

B. STATE AND PRESIDENTIAL PRIMARIES [53:52,70F; 54:27]

Within 4 days after a state or presidential primary, the town clerk shall canvass the records of the votes cast and make a return to the state secretary. [53:52,70F]

Prior to each primary, the state secretary will provide the computer-generated forms and appropriate envelopes to be used for making the returns. [54:27] A separate form and envelope is provided for each party. The form for the Republican party will be blue and the form for the Democratic party will be pink. Each form will be a continuous (unburst) computer printout. The pages of the printout should not be separated. (see sample form and envelopes on pages 421, 422, 423)

On the first page of the form, the type and date of the primary, the name of your town, the clerk's certificate and instructions for completing the form will be printed by computer. Enter the total number of persons who voted (total number of ballots cast) in the primary on the line provided near the top of the form. Sign your name on the line provided after "CLERK" under the certificate in the center of the form.

On the second and subsequent pages of the form, the office title, state-wide office or the district number and name, the party and the name of your town will be printed by computer. In addition, the candidates whose names appeared on the ballot will be printed by computer under each office. Space is provided in which you should enter the name and, if known, the address of each write-in candidate.

Under each office appearing on the form, enter in the column entitled "VOTES," the number of votes each candidate received, the number of votes recorded under all others (scattering), the number of blanks and the total number of votes cast.

The entries may be typewritten or entered by hand. If by hand, be certain that the entries are printed clearly.

The completed forms must be sealed in the envelopes provided and forwarded to the Elections Division, One Ashburton Place, Room 1705, Boston 02108.

1. Presidential Primaries [53:70F]

For presidential primaries, the presidential candidates whose names appeared on the ballot and "no preference" will be printed by computer on the forms.

The name of each write-in candidate for president appearing on the list forwarded to you by the state secretary before the primary, may be printed by computer on the form. If they are not, however, you must enter these names. Other write-in candidates' names should not be entered on the forms but the number of votes received should be included in the blanks under the office.

The names of candidates for state committee appearing on the ballot will be printed by computer on the form.

Town committee candidates' names and the votes received should not be entered.

2. State Primaries [53:52]

For state primaries, the names of candidates appearing on the ballot will be printed by computer under each office on the form.

C. STATE ELECTIONS [54:27,112,113,123,129]

1. Transmit Copy of Record to State Secretary [54:112,113]

The town clerk, within 15 days after the election, shall transmit to the state secretary a copy of the records of the votes cast for each candidate including write-in and scattering and the number of blanks under the offices listed below, and the votes cast and blanks under each question. [54:112]

- senator in congress
- representative in congress
- governor
- lieutenant governor
- councillor
- state secretary
- state treasurer
- state auditor
- attorney general
- clerk of courts
- register of probate

- sheriff
- district attorney
- senator in the General Court
- representative in the General Court
- presidential electors

Note that all of the above offices will not appear on the ballot or on the form for each state election since constitutional state offices do not appear on the same ballot as presidential electors, the term of senators in congress, register of deeds, clerk of courts and some other county officers is six years and the term of some county offices is four years. (see ELECTION WARRANTS in Volume 3 of this series) The votes for presidential electors are to be entered on the form opposite the surnames of presidential and vice-presidential candidates.

The copy of the record of the votes cast for all candidates for representative in the General Court must show the votes in each voting precinct or in each town not divided into voting precincts. [54:129] If your town votes by precinct, you will receive a form containing spaces to enter the votes for state representative by precinct.

Prior to each state election, the state secretary will forward the form and envelopes to be used making the required returns. [54:27] The form will be a continuous (unburst) computer printout similar to that used for primaries, except that the party will not appear and the color will be white. The pages of the printout should not be separated.

The form will contain the offices and the candidates' names under each office which appeared on the ballot. Each write-in candidate's name and, if known, the address must be entered under each office. Ballot questions will appear on the same form following the last candidate's name.

Complete and sign the first page and complete the pages containing offices using the procedures outlined under B. STATE AND PRESIDENTIAL PRIMARIES on page 305. Under each question, enter in the column entitled "VOTES," the number of affirmative and negative votes and the number of blanks.

After completing and signing the form, enclose it in the envelope provided. Be certain that the envelope is carefully sealed. In most towns, the envelope is sealed with tape. However, in some towns, stationer's sealing wax is used and in this case, add some tape since the wax seal may be broken in the mail. If the copy of the record transmitted to the state secretary is not sealed, he must forthwith give notice to the officer who transmitted it who is then required to make and certify another copy of the record and transmit the copy to the state secretary. [54:113]

The copy of the record should be forwarded to the Elections Division, One Ashburton Place, Room 1705, Boston 02108.

The state secretary must forward the sealed copy of the records to the governor and council who must, within 5 days, open and examine the records and tabulate the votes. (see 54:115,118)

2. Transmit Copy of Record to County Commissioners [54:27,112] (see sample forms on pages 424, 425, 426, and sample envelopes on page 426)

Within 15 days after a state election for county treasurer or register of deeds, the town clerk must transmit to the county commissioners the record of votes for such offices. [54:112]

Note: In Chelsea, Revere and Winthrop the records of votes for register of deeds must be transmitted to the election commissioners of Boston.

The clerk of the courts of each county must provide the suitable blank forms and envelopes for the returns to be made to the county commissioners. [54:27] Prior to each election you will receive the necessary forms and envelopes. Forms are to be completed, certified and sealed in the envelopes provided.

Note: The clerk of the courts must, on the first Wednesday of the month following the state election, examine the copy of records and determine what persons appear to be elected, issue certificates of election and notify the state secretary. In Suffolk County, the election commission of Boston examines the record of votes for register of deeds, issues the certificate of election and notifies the state secretary. (see 54:121)

3. Transmit Copy of Record to Clerk of Courts [54:27,112] (see sample form on page 427 and sample envelope on page 428)

Within 15 days after a state election for county commissioner, the town clerk must transmit a copy of the record of votes for that office to the clerk of the courts for the county. [54:112] Prior to each state election, the clerk of the courts will forward the necessary forms and envelopes. The forms are to be completed, certified and sealed in the envelopes provided.

Note: In each county, except Suffolk and Nantucket, the judge and register of the probate court and the clerk of the courts shall be a board of examiners. The board of examiners shall, on the first Wednesday of the month following an

election for county commissioner, examine the copies of records of votes, determine the persons who appear to be elected, issue certificates of election and notify the state secretary. (see 54:122)

Note: The sample forms shown for 2. and 3. above are those used in Middlesex County. Other counties use similar, but not identical forms. In some counties, the name of the town and the date of election are entered on the forms before they are transmitted to the town clerk. Note that space is provided on the sample form for the selectmen to sign. However, selectmen are no longer required to sign these forms. (see 1982:94) In addition, the sample forms state that the return is to be made within 10 days after the election. The time limit within which to return the forms was extended to 15 days by 1984:241.

4. Correction of Records [54:123]

If it appears to the governor and council, to the board of examiners (in Suffolk County to the Boston election commission), or to the county commissioners that any copy of a record of votes examined by them is incomplete or erroneous, they may order a new copy of the records to be made and transmitted to them.

Within 7 days after the order, the town clerk must transmit a new copy to the officials who ordered it. This copy, if found to be in conformity with law, shall have the same force as the original copy transmitted.

D. NUMBER OF VOTES TO BE STATED IN WORDS [54:110,130]

The whole number of ballots cast at elections shall be stated in words at length in the records of votes and in all copies thereof, but if not so stated, the record or copy shall not be invalidated provided the true results can be ascertained therefrom. [54:130] Also, no record of votes cast or copy thereof shall be rejected if the number of votes given for each candidate for office can be ascertained therefrom. [54:110]

In most towns, the number of votes is entered using numerals instead of words on the forms for returns to the state secretary, to the county commissioners and to the clerk of the courts.

E. NUMBER OF NAMES MARKED ON VOTING LIST [54:132] (see sample forms on pages 429 and 430)

Within 15 days after an election of state or town offices, the town clerk shall certify to the state secretary the total number of voters checked on the voting list at such election in each voting

precinct in the town. After a state election, the certificate of number of names marked must be sent in duplicate.

The form for this certificate will be sent to you by the state secretary prior to each town and state election. Enter the name of the town on the line provided at the top of the form. Enter the date of the election. On the line(s) after "Total number of people who voted" enter the number of names marked on the voting list used at the election, including the supplementary list, the list of non-registered specially qualified voters and certificates issued to omitted voters, if any. The number entered should equal the total number of ballots cast.

If your town does not have precincts, use the form shown in the sample on page 430. If your town voted by precinct, the number of voters checked on the voting list must be entered separately for each precinct and the form shown in the sample on page 429 must be used. In many towns voting by grouped precincts, the check-in and check-out list is arranged by precinct and in that case, enter on the form the number of names marked separately by precinct.

Be certain that you sign the form in the space provided at the bottom and for state elections, that you sign both the original and the duplicate before forwarding to the Elections Division, One Ashburton Place, Room 1705, Boston 02108.

Note: 54:132 provides that the town clerk must certify to the state secretary the total number of names checked on the list of persons qualified to vote only for electors of president and vice-president in each voting precinct and a duplicate copy of the certificate must be sent. Following presidential elections only, enter on the form, the number of names marked as having voted on the list of those qualified under 51:1F to vote by partial ballot. (see ABSENTEE BALLOTS, IX. PARTIAL BALLOTS in Volume 3 of this series)

F. PENALTY [56:18]

The penalty for failing to make and transmit copies of records of votes cast is a fine of not more than \$200.00. If the copy of record is deposited in the post office within the time fixed for transmission or delivery, postpaid and properly addressed, it shall be a bar to any complaint for delinquency.

If you are mailing the copies on the day the deadline expires, it is suggested that you take them to the post office in time to have them postmarked on that day or you obtain a receipt from the postal clerk showing the date you gave him the copies for mailing.

VII. PROCESS CERTIFICATES & NOTES

After the primary or election, certificates must be processed to correct the registration records. In addition, process the notes made by election officers at the polls or by you or your employees at the office related to corrections, such as an error in the voter's name or address, when a certificate was not required.

A. TYPE OF CERTIFICATES TO BE PROCESSED

Following each primary and election, process the warden's and listing error certificates issued to omitted voters and to voters whose names or addresses were incorrectly listed. [51:59; Regs. 51.03(5), 52.03(5), 54.03(6)] In addition, certificates of supplementary registration issued shortly before the primary or election must be processed. [51:50, 51] Following an election, certificates of error in party enrollment, if any, should be processed, but these certificates will not need to be processed following a primary. (see VIII. PROCESS PARTY CHANGES AFTER PRIMARIES on page 318)

Certificates issued to absentee voters to vote in person under 54:100 do not need to be processed.

B. WHEN TO PROCESS CERTIFICATES & NOTES

In many towns, certificates are processed immediately after each primary and election. In this case, open the voting list envelope to retrieve the certificates enclosed. It is suggested that you make a copy of the certificates from which to work so that the voting list and original certificates can be resealed in the envelope.

If corrections were entered by election officers directly on the voting list when no certificate was issued, make a copy of those pages of the list. If the warden has enclosed notes relative to corrections in the voting list envelope, retrieve the notes at the time the envelope is opened. (see ELECTION DAY, VII. ERRORS ON VOTING LIST on page 64)

After resealing the voting list in its envelope, add a signed note on the outside such as, "Opened to copy certificates and pages of list; voting list and all certificates resealed in this envelope at [hour], on [date]." Return the envelope to the vault or office safe.

Making a copy of the certificates or pages of the voting list will permit the check list to be examined and copied for the public without interrupting your work. Also, you will probably need to

mark the certificates and list while processing them and the original check list and certificates should not be marked during the period they should remain sealed. Marks, other than those made by the election officers on election day, may cause unnecessary questions to be raised during a recount.

In some towns, the schedule for processing certificates depends upon when the next updated voting list will be needed. Certificates are processed immediately after a state primary to update the voting list to be used at the November election and immediately after a presidential primary to update the voting list if the annual town election and town meeting closely follow that primary. Voters tend to become very upset if they must vote by certificate again at the next election or if they find that an error has not been corrected. If time permits because there is no election or town meeting to be held in the near future, certificates may be processed after the 30 day period during which the voting list should remain sealed.

Note: In some towns, all certificates and corrections are entered in the election record. In this case, work can be started immediately after the election without opening the voting list, provided enough information is entered in the record and the election clerk records all information accurately.

C. PROCEDURES

1. Arrange Certificates & Notes

Processing will be easier if all certificates and notes are arranged in the order in which the names appear on the voting list, either alphabetically or by streets. Also include pages of the voting list which have been copied.

If you have received a written request for a change of address or if the voter appeared in person to change his name, also include the request or a note containing the change of name. (see PREPARING ELECTION MATERIALS, V. VOTING LIST in Volume 3 of this series)

It is suggested that whenever possible, you work directly from a copy of the certificate or the certificate itself, even though the election officers may have made a related entry directly on the voting list. This will avoid repeating any errors the election officers may have made in transferring the information from a certificate to the list.

2. Changing the Records

If a name is to be added to the records, it must be added at the current address shown on the certificate or on the

request for an address change. If a name is to be moved from a previous address to a new one, be certain that the name is deleted from the records at the previous address to avoid listing the same voter at two different addresses. A certificate of supplementary registration should be processed using the regular procedures for any other new voter.

After an election, the party enrollment entered on the records should be that shown on the certificate. For an omitted voter, the previously established party shown on the record where his name was found, would appear on the certificate and that party should be entered in the records. Note, however, that the voter may change his party by filing a party change card.

After primaries, however, the primary check list and party change cards filed on election day will need to be checked to determine the party to be entered on the records, regardless of the party entered on the certificate. Follow the procedures outlined under VIII. PROCESS PARTY CHANGES AFTER PRIMARIES on page 318. If all party changes cannot be processed before the next election, be certain that an omitted voter's name is added to the records and that other corrections, such as name or address changes, are made.

Whenever a person is allowed to vote under the certificate procedure provided in 51:59 and in the Regulations, the appropriate changes should be made on the voter records after the primary or election without requiring the person to take any further action. [Regs. 51.03(5), 52.03(5), 54.03(6)] Even if a certificate voter's ballot was challenged, his name should be returned to the voting list. If the challenged ballot is subsequently rejected at a recount, the name would then be removed.

Note: If an omitted voter was issued a certificate at a presidential primary because he moved to another Massachusetts community within 6 months, his name should not be returned to the voting list. If such a voter was issued a certificate at a state primary, his name should not be returned to the voting list for the November election unless he moved within 6 months prior to that election as well.

Since a number of records will need to be changed, it is suggested that you make a note of each as the change is made to be certain that each step is taken and to avoid duplication of work if you should be interrupted before all records have been changed. In some towns, an entry is made directly on the certificate, note or voting list page after each step is completed. In other towns, a list of the records to be changed is stamped on the certificate, note or voting list page and a check mark is made next to each record after the step is taken.

SAMPLE RECORD LIST

Next V.L. _____
Next Supp. _____
Master V.L. _____
Aff. of Reg. _____
Census _____
Ann. Reg. _____

a. next voting list, supplement, master voting list

Unless the voting list will be reprinted, the appropriate changes should be made on the voting list or supplementary list to be used at the next primary or election. The appropriate changes should also be made on the master voting list, if one is maintained. Follow the procedures outlined under PREPARING ELECTION MATERIALS, V. D. UPDATING THE VOTING LIST in Volume 3 of this series.

Note: An updated voting list may be needed for a town meeting or caucus to be held before the next primary or election. For example, a special town meeting may be held between the state primary and the November election. Or, a political party caucus may be held early in the year, before the next election or town meeting and, in that case, be certain that party enrollment has also been updated.

b. affidavits of registration (see sample corrected affidavit on page 431)

The affidavits of registration records must be changed. In each case, if notes are made directly on the affidavits as part of the regular office procedures, enter the appropriate information and the date of the election as indicated below.

- omitted voters returned to voting list

For an omitted voter being returned to the voting list, remove his affidavit of registration from the inactive file. Enter on the back of the affidavit "Returned by certificate [date]" or "Cert. [date]." If the certificate was issued at an election, also enter the party enrollment, D, R or U, shown on the certificate. If, however, the certificate was issued at a primary, see VIII. PROCESS PARTY CHANGES AFTER PRIMARIES on page 318.

Then file the affidavit in the appropriate location in the active card file. If a drop notice was filed

with the affidavit of registration in the inactive file, enter on the notice "returned to voting list [date]." It may then be placed back in the inactive file or in a separate file.

- corrections

For a correction, remove the voter's affidavit of registration from the active file. On the back of the card, make the appropriate changes as follows:

-- name or address correction

Cross out the incorrect name or address typed on the back of the card and enter the new name or address. Enter a note such as, "name change, cert. [date]," "address change, error [date]."

-- party enrollment correction

If an error in party enrollment is being corrected after an election, enter on the back of the card, "Cert. [date of election] [party]." If after a primary, follow the procedures under VIII. PROCESS PARTY CHANGES AFTER PRIMARIES on page 318.

After the correction has been made, the affidavit should be returned to the active card file in the appropriate location.

Note: In some towns, entries are made on the front of the affidavit of registration in the margin or at the top of the card instead of on the back. However, only the voter himself should make changes in his signature.

c. census records (see also ANNUAL TOWN CENSUS in Volume 5 of this series)

The procedures to be used for changing the census records will depend upon the time of year, whether or not data processing is used and how the census is conducted in your town.

If the census and street lists have already been completed, changes cannot be made on these lists. However, in some towns, particularly those with data processing, a master census list, used for office reference and available for public inspection, is prepared each year and includes the information for all residents, or all residents 3 years old and older. Names can be added and corrections made by hand on such a list.

If the census and street lists have not been completed, names should be added and the appropriate corrections should be made before the lists are printed, if possible, so that the current lists for the year are accurate.

If the school list has not yet been forwarded to the school department, a family having children 3 through 21 years old should be returned to that list.

Note: If voters are indicated on the street list by a star or other symbol instead of a party initial, party enrollment changes do not need to be made on this list.

In any event, census records to be used in conducting the next annual census should be changed.

- towns without data processing

If the census is conducted by a door to door canvass or by telephone and the listers make out a new card for each resident or household each year instead of working from preprinted cards or lists, changes do not need to be made.

However, if preprinted lists are used, the names and addresses of omitted voters should be added and corrections in name or address should be made on the lists. Otherwise, the census listers may inadvertently miss a voter during the census, or a voter will complain that a correction should have been made after the last election.

In some towns, an 8 1/2 X 11 card or sheet is used for the census, a separate card for each household. For omitted voters, the retired family card should be removed from the inactive file. Enter a note "returned to voting list [date]" or some similar entry and place the card in the active file. The appropriate corrections should be made on the cards in the active file before they are used for the census.

Whether or not party enrollment corrections should be made will depend upon whether or not such information appears on the cards or lists used to take the census.

- towns with data processing

In towns with data processing, the census records on computer contain voter registration records as part of the data bank. In some towns, names are added and corrections made by completing a form which is then

sent to the service bureau or town data processing department. In other towns, a terminal is available in the town clerk's office. Additions and corrections are entered into the computer at that terminal.

The census records should be corrected so that the cards, forms or lists to be used by census listers contacting residents in person or by telephone or the forms to be mailed to each household for the next annual town census will be correct.

d. annual register

51:37 requires that the annual register be arranged alphabetically by voters' names. If your voting list is arranged alphabetically by name, adding names of omitted voters who voted by certificate and making the appropriate corrections on a copy of this list prepared following the annual town census each year, would comply with the requirements for updating the annual register.

If you file the affidavits of registration arranged alphabetically by voters' names, this may be considered the annual register. In this case, the necessary additions and changes would be made as outlined under 2. b. on page 314. If affidavits of registration are filed by street address, the annual register may consist of a duplicate set of affidavits of registration or a set of cards, one for each voter, arranged alphabetically by name. A card for a voter whose name is returned to the voting list should be added to the active file and any necessary corrections should be made on cards already in the file.

In some towns using data processing, a computer printout arranged alphabetically by voters' names is prepared each year following the annual town census and is used as the annual register. Usually the printout is prepared in duplicate. One copy is kept as the permanent record (see state retention schedule #2.38). Additions and corrections are made on the second copy of the printout.

In other towns with data processing, the names are added and corrections made in the data bank and no special printout is prepared. Making such corrections complies with the requirement for updating the annual register.

D. REGISTRARS' MEETING

In some towns in which the registrars were not present at the office or at the polls on election day and did not formally vote at that time on authorizing warden's certificates or issue listing

error certificates, they meet shortly after the primary or election to ratify the issuance of certificates. Such a meeting is a formality only to establish a written record that certificates were properly authorized and issued. Included in the vote are certificates issued under the following circumstances:

- warden's certificates authorized by the town clerk or employees under guidelines established by the registrars prior to the election
- certificates issued by the warden, without first calling the office for authorization, to omitted voters appearing on the most recent dropped voter list
- pre-signed listing error certificates or certificates on which the registrars' signature stamp has been used, issued by the town clerk or employees after receiving telephone authorization from the registrars, or issued without contacting the registrars on election day under guidelines previously established by the board.

It is suggested that a list of the names and addresses of all voters to whom such certificate were issued be prepared for each registrar. Enter the reason the certificate was issued next to the voter's name. Also, enter any information you believe the registrars may need, such as "party enrollment error, party change card [date] found," "omitted voter, name found, 1983 dropped list, signed affidavit of continuous residence," etc.

Attach the list to the minutes of the meeting and incorporate it by reference in the text. The minutes and the attached list will provide a written record should questions be raised at a later time concerning the issuance of a certificate.

Note: At the meeting, the registrars should not decide that a person who voted by certificate should not be returned to the voting list unless they first hold a hearing giving notice to the voter and permitting him to be heard.

VIII. PROCESS PARTY CHANGES AFTER PRIMARIES [53:37,37A,38]

After every primary, all party changes must be processed to update the voter registration records. To process party changes you will need to work with the primary check list, including some of the certificates, and the party change cards. If you work only with the party change cards, you will omit changing the party for those unenrolled voters who voted in the primary and who did not subsequently file a card.

A. WHEN TO PROCESS PARTY CHANGES

The schedule for processing party changes is the same as for processing certificates. (see VII. PROCESS CERTIFICATES & NOTES on page 311) However, if a large number of changes are to be made after a state primary, it may not be possible to complete the work and make all the necessary corrections on the voting list to be used at the November election. Some voters may complain, but their voting rights at that election will not be affected.

B. PROCEDURES

The following procedures are suggested.

1. Copy Primary Check List and Certificates

Whether you start processing party changes immediately after the primary or wait until the expiration of the 30 day period during which the check list should remain sealed, it is suggested that you make a copy of the check list and certificates instead of working with the originals. During processing, you will need to make a considerable number of marks on the list and certificates. Such marks may make the list confusing to the public when it is examined or when you provide a copy and may cause unnecessary questions to be raised at a recount. In addition, working from a copy will permit public examination or copying the original check list without interrupting your work.

Note: You will not need a copy of the list of non-registered specially qualified voters since no changes need to be made on any records for these absentee voters.

After making the copy, the voting list and certificates should be resealed in the manila envelope unless the 30 day period has already expired. Enter and sign the following note on the outside: "Envelope unsealed to make a copy; list and all certificates re-sealed at [hour] on [date]."

2. Arrange Certificates

Sort out certificates issued only to correct a name or address. These certificates will not be needed to make the appropriate party changes but should be processed as outlined under VII. PROCESS CERTIFICATES & NOTES on page 311. Also, sort out all certificates issued only to correct an error in party enrollment and all certificates issued to absentee voters to vote in person. These certificates do not need to be processed further.

Arrange all remaining certificates in the order in which the voter's name appears on the voting list. These certificates will be only those issued to omitted voters and certificates of supplementary registration.

3. Arrange Party Change Cards

Arrange all party change cards received in your office after the close of registration for the primary in the order in which the names appear on the voting list. Include party change cards filed before the primary, those received from the polling place on election day, and any which have been received since then.

While arranging the cards, check to be certain each card has been properly completed and signed. If not, the card should be returned to the voter with a notice that the card cannot be processed, including the reasons. [53:38]

SAMPLE NOTICE

(Board of Registrars Letterhead)

Date _____

Voter's name
Voter's address

This is to inform you that the enclosed party change card cannot be processed in accordance with your wishes for the reason checked below:

____ card not signed (please sign exactly as registered)
____ address not entered
____ party from which enrollment should be changed not entered
____ party to which enrollment should be changed not entered
____ other _____

Please make the appropriate correction on your card and return it to this office as soon as possible. It must be received by [date] if you wish to have the change made on the voting list to be used in the next election. If you have any questions, please call the office at [telephone number].

Board of Registrars
Town of [name]

By _____ Your Signature
Clerk

In some towns, the card is not returned to the voter if the address or if the party from which the enrollment is to be changed has not been entered provided the card is otherwise in order. However, the card must be returned to the voter if he has not signed it or if he has not entered party to which the enrollment should be changed. Note that 53:38 requires that the request for a party enrollment, cancellation or change be signed under the pains and penalties of perjury. Therefore, you should not accept a simple note or letter requesting a change or a request made by telephone.

If the party change card is in order, proceed as follows:

4. Compare Party Change Card to Primary Check List or Certificate

For each card, find the voter's name on the check list or certificate. It is suggested that you make all necessary changes on the check list or certificates in red so they will be easily noticed when other records are being changed. Note that all marks made by the election officers will appear in black on the copies even though they used red pens or pencils on election day.

a. certificates

It is suggested that, after a state primary, you complete the necessary work with certificates first since these will need to be processed to add the name to the voting list to be used at the November election.

A party or the word "unenrolled" will have been entered on each certificate before it was issued. If the voter was unenrolled, the election officer will have added the party selected when he was checked in.

On the party change card, look at the entry made by the voter to indicate the change he wishes to have made. This should appear on the line after TO:. (see PREPARING ELECTION MATERIALS, VI. MISCELLANEOUS, A. 8. in Volume 3 of this series)

Cross out the party entered on the certificate and enter the party shown on the party change card. Use "D" or "R" for a party and either "U" or "V" for unenrolled. Make a check mark on the party change card to show that this step has been taken.

If you find no party change card signed by the voter, do not make any changes on the certificate. His enrollment is that entered on the certificate, either when it was issued or at the time the voter was checked in. Circle the

party in red so that it will be noticed when subsequent steps are taken and so that the person processing the certificate further will know that this step has been taken.

Then all certificates can be processed as outlined under VII. PROCESS CERTIFICATES & NOTES on page 311. Place the checked party change cards in a pile or box until they can be filed.

b. primary check list

The procedures for comparing the party change cards with the primary check list are similar to those outlined in a. certificates above. For each voter who signed a party change card, cross out on the voting list the party appearing next to the voter's name. Enter next to it, the party shown on the card on the line after TO:. Make a check mark on the party change card. Place all party change cards in a pile or box until they can be filed.

You must also examine on the check list, the name of each voter marked as having voted but who did not file a party change card. If the party initial was printed on the voting list and there have been no corrections, no records need to be changed. Otherwise, proceed as follows:

- party corrected before person voted

If a party correction was made in the office before the primary or the party was corrected by certificate on primary day, you will see a crossed out party initial on the check list. You should also find a party initial entered by the election officers at the polls. Circle that initial in red since that is the party in which the person voted and in which he should be currently enrolled. [53:37]

- unenrolled voters who voted

For unenrolled voters who voted, you should see only the party initial entered by the election officers. Circle that party initial since that is the party in which the unenrolled voter voted and in which he should be currently enrolled. [53:37]

In most cases, the party initial entered by an election officer can be easily distinguished from a party initial printed on the list. However, if you are in doubt, circle the party so the enrollment records will subsequently be checked.

Note: If AV or SAV has been entered on the voting list but the name has not been marked as having voted or to show that the ballot was rejected, no change in enrollment records should be made even if a party has been entered. The voter did not enroll in a party since his absentee ballot was not processed. If, however, the name was marked to show that the ballot was cast or rejected as defective and a party has been entered, circle the party. The voter should be currently enrolled in that party since his ballot was processed. [53:37A]

- election officer neglected to enter party

If you find a mark indicating that an unenrolled voter voted but the election officers neglected to enter the party initial, an effort should be made to determine the party. In paper ballot and punch card towns, the check-out list can be examined since the party initial should have been marked on that list at the time the ballot was deposited. In voting machine towns, however, there is no check-out list. If the voter filed a party change card, enter on the check list the party shown on the line after T0: since that is the party in which the voter wishes to be enrolled. Even if the voter wishes to remain unenrolled, enter "V" or "U" on the check list so the person processing party changes further will know the name was not missed in error during this step.

If the voter did not file a party change card, try to obtain the needed information by telephone or letter. (also see ELECTION DAY, IX. G. PRIMARIES on page 93) If the voter cannot be contacted or does not respond, do not attempt to guess and enroll him in a party.

SAMPLE LETTER - CORRECT CLERICAL ERROR

(Registrars' Letterhead)

Date _____

Voter's name
Voter's address

In processing the voting list used at the recent primary, it has come to our attention that a clerical error was made in that the election officer neglected to enter the party whose ballot you chose when you voted.

Since you become enrolled in a party by voting in a primary, we would appreciate your verifying the party you chose by checking one of the parties below.

Democratic _____ Republican _____

However, if you wish, you may complete and sign the enclosed party change card regardless of the party in which you voted at the primary. Please sign as you are registered and return the card to this office as soon as possible.

If you have any questions, please call the office at [telephone number].

Board of Registrars
Town of [name]

By: _____
Clerk

5. Changing Party Enrollment Records

Whenever a voter shall establish, cancel or change his enrollment, it shall be recorded in the current annual register of voters. [53:37] On the day of the primary, the voter may transmit the certificate [party change card] to the town clerk, who shall transmit it as soon as possible to the board of registrars, to be retained in their custody. The party enrollment of each voter shall be recorded in the current annual register of voters and whenever a voter shall establish, cancel or change his enrollment it shall likewise be so recorded. [53:38]

While the General Laws refer only to correcting the current annual register, other records will also need to be corrected. Working from the primary check list and the certificates marked in red as outlined in 4. above, the enrollment records will need to be corrected only if one of the following applies:

- the red "D," "R" or "U" entered on the check list or certificate is different from the original or corrected party shown on the printed voting list, the supplementary list or entered by the warden or registrars on the certificate.

OR

- a party initial entered by the election officers next to an unenrolled voter's name is circled in red indicating that no party change card was filed.

No change in the records will be required if an unenrolled voter who voted in the primary also filed a party change card and entered "unenrolled" on the line after T0:. Also no change will be needed for enrolled voters who did not file a party change card.

It is suggested that, as each of the following records is changed, a note be entered on the check list or certificate to indicate that the change has been made. For example, after the voting list to be used in the next election has been corrected enter "vl" or a symbol next to the voter's name on the primary check list or certificate. After the master list has been corrected, enter "ml" next to the voter's name. If a different color is used for each step, it will be easier to see which steps have been taken.

The party enrollment will need to be changed on the following records:

a. next voting list, supplement, master voting list

Unless the voting list will be reprinted, the party enrollment changes should be made on the voting list and supplementary list to be used at the next primary or election. If a party is printed on the list, cross it out and enter the correct party initial next to it. If the voter has changed to unenrolled, do not make an entry next to the crossed-out party or enter "U." If the voter is unenrolled on the printed list, but should now be enrolled, add the appropriate party initial. It is suggested that the changes be made using black ink on both the voting list and the supplement to distinguish them from the entries to be made in red by the election officers at the next primary or election.

The appropriate changes should also be made on the master voting list, if one is maintained. Changes on this list may be color coded. (see PREPARING ELECTION MATERIALS, V. D. UPDATING THE VOTING LIST in Volume 3 of this series)

Note: An updated voting list may also be needed for a town meeting or caucus to be held before the next primary or election. For example, a special town meeting may be held between the state primary and the November election. Or, a political party caucus may be held early in the year, before the next election or town meeting and in this case, be certain that party enrollment has been updated to reflect changes in party between the close of registration for the preceding primary and the deadline for enrolling in the party prior to the caucus. (see 53:72)

b. affidavits of registration

If entries are made directly on the affidavits of registration to indicate a voter's history, these records will need to be corrected.

For each voter on the check list whose party enrollment must be changed, remove the affidavit of registration from the active file. If the name appears on a certificate issued to an omitted voter, remove the affidavit of registration from the inactive file.

If the marks on the check list or certificate indicate the change should be made because a party change card was filed, enter on the back of the affidavit "PCC, [date], [party initial or U]." In this case, the date entered should be the date the party change card was filed.

If the marks on the check list or certificate indicate that the change should be made because the voter voted in the primary but did not file a party change card, enter "Prim. [date], [party initial]." In this case, the date entered should be the date of the primary.

File the affidavit of registration in the appropriate location in the active file. However, if additional changes are required such as a change of address or name, do not file the card until after those changes are made. (see VII. PROCESS CERTIFICATES & NOTES on page 311)

Note: In some towns, an entry is made on the affidavit of registration even if the voter's enrollment has not changed. For example, if an unenrolled voter votes in the Democratic primary and then signed a party change card to

return to unenrolled, the following is entered on the affidavit "Prim. [date], D"; "PCC [date], U."

c. census records

The procedures for changing party enrollment on census records are the same as outlined under VII. PROCESS CERTIFICATES & NOTES, C. 2. c. on page 315.

d. annual register

The procedures for changing the party enrollment on the annual register are the same as outlined under VII. PROCESS CERTIFICATES & NOTES C. 2. d. on page 317.

C. RECEIPTS [53:38]

Unless a receipt has already been sent or given to the voter, a receipt will need to be completed and mailed to each voter who filed a party change card, whether or not a change had to be made on the enrollment record as outlined above. 53:38 requires that a notice of receipt be sent to each voter who filed a party change card on the day of the primary. However, it is not clear that 53:38 requires a receipt to be sent to each voter who files a party change card on a day other than the day of the primary. It is suggested that, to ensure compliance with 53:38, a receipt be mailed or given to each voter regardless of the day on which the card was filed.

A form may be prepared or a post card may be used. (see PREPARING ELECTION MATERIALS, VI. MISCELLANEOUS A. 9. in Volume 3 of this series) Enter the name and address of the voter and check the party in which he desires to be enrolled or unenrolled as indicated on the party change card. If a form other than a post card is used, time will be saved if you adjust the size and spacing on the form so that a window envelope can be used.

It is suggested that as each receipt form or post card is completed, an entry be made directly on the party change card to provide a record that the receipt requirements of 53:38 have been met. If a check mark is made, use a color other than red to distinguish it from the check made when the primary check list or certificate was marked, or initial the card. (see B. 4. Compare Party Change Card to Primary Check List or Certificate on page 321)

D. FILE PARTY CHANGE CARDS

After all of the steps outlined in B. and C. above have been completed, the party change cards should be filed. The

General Laws do not specify the order in which the cards are to be filed. The cards may be filed in the same order as the names appear on the voting list.

However, in many towns, the cards are filed alphabetically by voter's name even if the voting list is arranged by streets and divided by precincts. If this system is used, when a voter changes his address, the party change card does not need to be amended or moved in the file to permit his card to be found easily.

As each card is filed, check for a card filed previously containing the same voter's name. The previously filed card may be removed from the active file and placed in an inactive file since it is superceded by the current card. At the time a voter is dropped from the voting list, his party change cards may be removed from both the active and inactive file and placed in a file of cards scheduled for disposal after the retention period has expired.

Party change cards must be retained for two years following removal of the voter's name from the voting list. [State Retention Schedule #2.34] Permission from the State Supervisor of Public Records is required prior to disposal of these cards.

Note: In some towns, the party change cards are stapled to the voter's affidavit of registration. Each time a new party change card is filed by the voter, it is also stapled to the affidavit. Using this method, when a voter is dropped, the affidavit and all party change cards he has filed are placed in the inactive file. Note, however that either the original affidavit of a dropped voter or a microfilm copy must be kept permanently. (see 51:41 and state retention schedule #2.42)

IX. CONTESTED ELECTIONS [54:134]

The results of a primary or election may be contested under the provisions of 54:134 by any person who has received votes for any office, except presidential elector, appearing on the ballot. An election may be contested by a write-in candidate as well as a candidate whose name was printed on the ballot. However, the results of the vote on a ballot question may not be contested under 54:134.

Note: Contesting an election for the office of presidential elector is governed by 54:119 and 120. A petition must be made to and heard by the Supreme Judicial Court for Suffolk County. The town clerk or registrars may be summoned and required to produce election records in connection with such a contest.

The purpose of contesting an election under 54:134 is to obtain a review or recount by the body to which the candidate was elected or by the officers who would issue the candidate's certificate of election. The provisions of 54:134 might be used when an issue cannot be resolved by a registrars' recount under 54:135, such as one involving undue influence on absentee voters by the person who witnessed ballots or involving absentee ballots signed by a witness not in the voter's presence.

However, primaries and elections are seldom contested under 54:134. Usually a recount is petitioned and held under 54:135, 135A or 135B. In most cases, the recount determines the election results but if a candidate wishes to pursue the matter, he may go to court. (see XI. RECOUNTS on page 339)

A. DOCUMENT TO BE FILED

The candidate contesting the election results must file a written claim to the office or a declaration of intent to contest the election.

1. Form - Contents

The form to be used for a written claim to office or a declaration of intention to contest is not specified in 54:134.

The information required to be included in the claim or declaration is also not specified in 54:134. However, the name and address of the candidate filing the document, the name and address of the candidate and the title of the office being contested would be needed.

If a candidate should request information concerning contesting an election, it is suggested that you provide him with a copy of 54:134 and recommend that he consult the Elections Division or a lawyer.

2. With Whom Filed

The candidate or his agent must file a written claim or declaration with the town clerk. For state elections, it must be filed with every affected city or town clerk. For example, if a person receiving votes for representative in the general court contests the election, the document must be filed with each city or town clerk in the state representative district.

Note: Since 54:134 requires that the candidate or his agent "serve upon the town clerk" a written claim or intent, the document may be hand delivered to your office by a deputy sheriff or constable, the same as service related to an action or claim against the town is made. (see Town Clerks Manual,

Volume 2, Chapter 3, X. ACTIONS AND CLAIMS AGAINST THE TOWN)
However, the written claim or intention may also be mailed to
the town clerk.

Upon receipt, time stamp the claim or declaration or note
the date and time of receipt on it. It must be kept on file
in your office until it is withdrawn or finally decided.
[State Retention Schedule #2.27] When the retention period has
expired, the claim may be disposed of without permission from
the State Supervisor of Public Records since this item is
starred in the retention schedule.

In voting machine towns, the board of registrars should be
notified immediately upon receipt of a claim or declaration
since the voting machines must be recounted for the office
involved. (see C. below) In other towns, the town clerk is
not required to notify anyone of receipt of the claim.

It is suggested, however, that you consult with town coun-
sel and/or with the Elections Division upon receipt of a claim
to office or declaration of intention to contest an election.

3. Deadline for Filing

The claim or declaration must be filed with the town clerk
within 30 days after the primary or election which is being
contested. For example, for an election held on March 25th, a
claim or declaration must be filed on or before April 24th.

B. RETAIN OFFICIAL ELECTION MATERIAL

Following receipt of a claim to office or a declaration of
intention to contest, official election material must be retained
until the claim is withdrawn or the contest is finally decided.

The election material sealed on election night by the election
officers should remain sealed during this period with the following
exceptions:

- tally sheets received in the tally sheet envelope
- the voting list when required to make copies, permit public
examination, balance the count or when it must be amended
for absentee ballots counted in the office. Note that the
voting list should be resealed after each of these events.
- any election material required for a recount held under
54:135, 135A or 135B. The election material must be re-
sealed following the recount. (see XI. RECOUNTS on page
339)

C. VOTING MACHINE TOWNS [54:135A]

In voting machine towns, the registrars must proceed to inspect and examine the voting machines showing votes cast for the contested office. Note that only the voting machines are examined. Write-in paper, absentee, challenged and escrow ballots, etc. are not examined.

If printomatic machines are used, the examination may be made by recounting the pack sheets. However, upon request of a candidate, the machines themselves should be examined the same as non-printomatic machines.

1. Schedule

The examination must take place within 5 days from the receipt of the claim or declaration. In setting the date for the examination, the notice requirements should be taken into consideration. (see 2. Notices below). Also, unless the deadline for filing recount petitions has already expired when the claim of declaration is filed, that deadline should be considered. (see XI. RECOUNTS, B. on page 347)

Note: As a practical matter, the voting machines would probably have already been examined under a recount petition before a claim is filed. In that case, they are not required to be examined again provided the same office appeared on the recount petition and on the claim or intention to contest.

2. Notices

Written notice of machine examination, including the date, time and place of the examination, must be given to candidates for the office in question and to their authorized representatives. Notice should be given the same as outlined under XI. RECOUNTS, C. 2. on page 350 except that ballot boxes are not involved and, unless printer packs are to be examined, election material, other than machine keys and key envelopes and certificates of machine failure, candidate counters not registering 000 and that a machine was properly prepared, is not required.

3. Observers

Observers at the examination of voting machines are the same as outlined under XI. RECOUNTS, D. OBSERVERS on page 352. The candidates, their counsel and agents must be permitted to be present and observe all proceedings.

4. Personnel

At least a majority of the board of registrars must be present at the examination. Other personnel needed would be

the same as outlined under XI. RECOUNTS, E. 1. on page 354, except that runners would not be needed since ballots cast on the voting machines are not protested and write-in paper is not recounted. Also, the constable or deputy sheriff would not be involved since there would be no hearing on challenged and escrow ballots.

5. Material

A total vote sheet, prepared the same as for counting machine votes at the election, will be needed. (see PREPARING ELECTION MATERIALS, II. TALLY SHEETS, C. 2. in Volume 3 of this series) If the town voted by precinct, a total vote sheet for each precinct will be needed. However, only the office contested will appear on the sheets and the word, "CONTEST" and the date of the examination should be added at the top. In addition, rows are not needed on the sheet for absentee and challenged ballots.

6. Equipment

The same equipment as outlined under XI. RECOUNTS, E. 4. a. and b. on pages 364 and 365 will be needed.

7. Procedures

The procedures to be used are the same as outlined under XI. RECOUNTS, F. on page 367, except that the official election material needed would be the machine keys and key envelopes, certificates of machine failure, counters not registering 000 and that a machine was properly prepared and for printomatic machines, the printer pack sheets. Also follow the procedures outlined under G. 2. on page 374, except that absentee ballots and write-in votes are not recounted.

Note: If the deadline for recount petitions has not yet expired when the machines are examined, the machines should not be released for preparation for a succeeding election immediately following the examination. Wait until after the recount petition deadline has passed.

8. Record

The registrars shall make a record of the votes cast on the machines for the contested office. The record may be the total vote sheet on which machine votes for the contested office have been entered and totals calculated. The record must be certified as correct and a majority of the board must sign the certificate. The certificate may be typed on the total vote sheet(s).

SAMPLE CERTIFICATE

This is to certify that this is a true record of the votes for the office of [title] cast on voting machines in precinct [#] recounted on [date] in accordance with claim to office [declaration of intention to contest] under Ch. 54, s. 134, G.L. received on [date] and in accordance with Ch. 54, s. 135A, G.L.

Board of Registrars
Town of [name]

The record must be preserved so that it may be available as the evidence of the votes cast for the office. The record shall be received as evidence as fully and with as full force and effect as if proved by the oral testimony of the registrars or by the production of the voting machines in court.

It is suggested that the tally sheet(s) containing registrars certificate be kept in the vault or office safe until it is ordered by the body, officer or court considering and determining the claim. (see E. below) Keep a copy on file in your office at least until the claim has been withdrawn or a final determination has been made. (see State Retention Schedule #2.27)

In addition, a permanent record should be prepared similar to that prepared following a recount. (see XI. RECOUNTS, I. 2. on page 400)

D. WHO CONSIDERS/DECIDES CLAIM OR CONTEST

The body to which the person claims to be elected, or the officers required by law finally to examine the records and to issue certificates of election to the office, or any court having jurisdiction considers and decides the claim or contest. The specific body or officers will depend upon the office involved.

After considering the claim or contest, the body or officers may, but are not required to, conduct a recount and decide the issue. Such a recount would be separate and apart from a recount petitioned under 54:135, 135A or 135B.

In the past, the few elections which have been contested have usually involved candidates for the federal or state senate or

house of representatives and these bodies have considered and decided the issue. Note, however, that these bodies have the power under the state or federal constitutions to take such action and the provisions of 54:134 are not necessarily used.

There is some question concerning what bodies or officers, if any, have the authority to decide contested local elections. In one case, the Superior Court appears to have decided that a planning board had no authority to conduct a recount of the votes for that office under a claim or declaration filed by one of the candidates. The court stated that the planning board had no jurisdiction, but did not state its reasons.

E. TOWN CLERK TO PROVIDE ELECTION MATERIAL

Upon order of the body or the officers or a court having jurisdiction, the town clerk is required to produce the ballots and the envelopes or containers in which other official election material has been sealed. In voting machine towns, the record of the machine votes made by the registrars as outlined under C. 8. on page 332 must also be provided.

The town clerk and registrars might be involved in the contest as witnesses or required to produce other election records. If so, they would be notified or summoned and the records required would be stated in the summons. Or, the registrars might be ordered to conduct the recount.

If you receive an order or summons, advice may be obtained from the Elections Division.

F. BODY OR OFFICER MAY AMEND ELECTION RECORD

Following a recount, the body or officer may amend any election record, or copy thereof, in relation to the office being contested.

X. OBJECTIONS TO NOMINATIONS [53:53A,55; 55B:5,7,8,9,10,11]

When nominations made at a state primary or at a town primary or preliminary election are in apparent conformity with law, they shall be valid unless written objections thereto are made. [53:53A, 55] The procedures to be used for objections to primary and preliminary nominations are specified in Chapter 55B, G.L. and should not be confused with the procedures for contesting an election under 54:134.

An objection is a formal complaint to prevent the name of a candidate from improperly appearing on an election ballot. In most cases,

objections would be made to certificates of nomination or to nomination papers prior to a primary or election. Procedures for such objections are covered under NOMINATIONS in Volume 5 of this series. However, those procedures would not be available if a write-in candidate won a primary nomination and in that case, an objection to his nomination might be filed after the primary.

The general law provisions related to objections to town primary nominations appear in 53:55 and in Chapter 55B. The procedures are similar to those for objections to nominations at a state primary, except that the objection must be filed with the town clerk and the board of registrars acts as the local ballot law commission. Since few towns have town primaries and objections to nominations made at a preliminary town election would be specified in the town's special act or home rule charter, the detailed procedures will not be covered in this manual. Procedures with respect to objections to nominations made at state primaries are included below for your information.

If you receive a request for detailed information concerning objections to nominations, recommend that the person consult a lawyer and, with respect to state primary nominations, that he consult with the Elections Division. You may provide the person with a copy of the pertinent sections of the General Laws, a copy of the State Ballot Law Commission Regulations 950 CMR 59.00 available from the Elections Division and the information outlined below. Do not attempt to give advice. If an objection to a town primary is filed with you, advice may be obtained from the Elections Division or from town counsel.

A. FILING OBJECTIONS

1. Form

The form to be used for filing an objection to a nomination is not specified in the General Laws. However, the State Ballot Law Commission has a suggested form for use in filing objections related to state primary nominations. This form is not required to be used as long as the objection contains all the required information. (see sample suggested form on pages 432 and 433)

Note: A similar form may be used for filing objections to town primary nominations.

2. Contents [55B:5]

The objection will not be valid unless it contains the voting address of the objector as shown upon the current annual register of voters. It should also contain the objector's signature unless it is filed by his attorney.

The objection must state in detail each ground for protest with respect to the primary or preliminary nomination. Grounds might be that the person nominated is not a registered voter or that he does not have the qualifications for nomination, such as not being an enrolled member of the party for the required period. (see 53:48) Some offices require other specific qualifications. For example, a candidate for district attorney must be a lawyer. (see 12:12) Grounds might also be that the candidate is a nonexistent or fictitious person.

3. Filing Fee [55B:5]

Objections to nominations made at state primaries must be accompanied by a nonreturnable fee of \$25.00. However, the fee will be returned if the State Ballot Law Commission declines jurisdiction.

Note: There is no filing fee for objections to town primaries.

4. Who May File Objection [55B:5]

An objection may be filed by any registered voter of the district in which the candidate was nominated. For example, a person objecting to the nomination of a candidate for state representative must be a registered voter of the same representative district.

5. Certificate of Voter Registration

Objections to nominations at state primaries must be accompanied by a certificate of voter registration issued by the board of registrars or its clerk where the objector resides stating that he is a registered voter in the district of the candidate being challenged. The certificate form is specified in 55B:5 as shown in the sample below.

SAMPLE CERTIFICATE OF VOTER REGISTRATION

We hereby certify that _____,
(name of voter)
residing at _____, is a
(street, #, precinct #)
registered voter.

Signature
Clerk of Board of Registrars of Voters
Town of [name]

Before issuing such a certificate, check the voter registration records to be certain that the objector is a voter in your town and check the precinct in which he is registered. The form regularly used in your town for registered voter certificates may be used for this purpose, provided it contains the voter's street address and precinct number, if any. In some precinct towns, all precincts are not included in the same state senatorial or state representative district. (see Chapter 57 for list of cities and towns in each congressional, councillor, state senatorial and state representative district)

Note: There is no requirement that the objector be enrolled in the same party as the candidate being challenged.

6. With Whom Filed [55B:5]

Objections to nominations made at state primaries must be filed with the secretary of state. They may be sent by mail or delivered in person. However, the objection is not considered filed until it is received by the state secretary.

7. Deadline for Filing [55B:5]

Objections must be filed within 6 days succeeding 5 P.M. of the day on which the primary was held.

For state primaries, the deadline date will appear in the official election calendar prepared by the Elections Division and mailed to town clerks during each state election year.

8. Copy of Objection to be Forwarded [55B:5]

The objector must mail a copy of the objection to each candidate against whose primary nomination the objection is filed. The copy must be mailed, registered or certified, return receipt requested, not later than the time it is filed with the state secretary. Failure to mail the copy will invalidate the objection.

Note: 55B:5 and Regulations 950 CMR 59.02(4)(a) state that the copy must be mailed not later than the day after it is filed with the state secretary. However, Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01(5)(f) incorporated into the Regulations requires that the copy be mailed simultaneously with filing of the objection and this schedule should be used.

The objector must also hand-deliver or mail a copy of the objection to every other party in the case, including all candidates for the office and any affected party state committee.

A statement signed under the penalties of perjury that the required copies have been delivered must appear on the filed objection.

B. PROCEDURES [55B:5,8,9,10,11]

1. State Secretary to Forward Objection [55B:5]

The state secretary must forward all objections filed with respect to state primary nominations to the state ballot law commission.

2. Notice [55B:8; Regs. 59.02(4)]

The state secretary, acting as secretary to the state ballot law commission, must notify all parties affected that an objection to the nomination has been made. The deadline for notification, with respect to the state biennial primary, is 5 P.M. on the Tuesday following the last day for filing objections. The notice must be mailed, registered or certified, return receipt requested, to the candidates' residences as given in the certificates of nomination or nomination papers. It must contain in detail the objections made, the date, time and location of the hearing and the rules or procedures that will be used in conducting the hearing. [55B:8] The state secretary must also make a reasonable attempt to notify all parties by telephone at once. [Regs. 59.02(4)]

The General Laws do not specify a deadline for notice with respect to special state primaries. The notice is sent as soon as possible after receipt of the objection.

3. Hearing [55B:9]

The hearings on objections to nominations at state primaries shall not be held prior to the Monday following the last day for filing objections.

At the hearing, all parties will have the opportunity to present evidence to the commission, call and cross-examine witnesses under oath, introduce documentary evidence and present arguments of law.

The board of registrars may be summoned to appear and testify at the hearing and to bring records showing the candidate's residence, party, date of registration, etc. Sometimes, the documents stated on the summons will be "all voter registration, party enrollment and census records on file in the registrars' office" or words to that effect. In that case, since it would be extremely difficult to bring all such records and it is likely that they are not needed, contact the lawyer

named on the summons to determine what specific records he needs. He may need only a certified copy of an affidavit of registration or a voting list.

4. Decisions [55B:10]

The commission must render a decision with respect to a state biennial primary not later than 5 P.M. on the 14th day after the last day for filing objections. For a special state primary, the decision must be rendered not later than 5 P.M. on the 4th day after the last day for filing objections. The written decision will state the specific reasons and will be mailed to all parties. Decisions may be appealed to a court.

Note: Procedures used by the state ballot law commission appear in its regulations, 950 CMR 59.00, as well as in Chapter 55B, G.L.

XI. RECOUNTS [53:40A; 54:135,135A,135B,136]

A recount is the most common method used to obtain a review of the ballots cast at a primary, preliminary or election. If the election results are close, it is very likely that a recount will be requested. However, a recount is sometimes requested when there is a considerable difference in the number of votes between the leading candidate and other candidates under an office or between YES and NO under a ballot question. (see B. 2. on page 349 for margin required for state-wide or district-wide recounts)

The procedures to be used for requesting and holding a recount are specified in the General Laws.

A. RECOUNT PETITION [53:40A; 54:135,135B; 1985:477]

A recount cannot be held unless a properly completed and signed recount petition is filed. A recount of the ballots cast in a particular precinct or in a town may be requested. A state-wide recount may be requested for offices and questions to be voted on at a state primary or election or at a presidential primary by all the voters of the Commonwealth. A district-wide recount may be requested for offices and questions to be voted on in a district at a state primary or election or presidential primary.

1. Form

The petition must be on a form furnished by the state secretary. White form E-235 is to be used for town recounts. Yellow form E-235 is to be used for state-wide or district-wide

recounts. Both forms are about 11" X 17" in size and may be obtained from the Elections Division, One Ashburton Place, Room 1705, Boston 02108, 727-2828, 1-800-462-8683. (see sample forms on pages 434, 435, 436 and 437)

2. Contents

a. statements required on form

The petition must contain a statement that the voters signing it have reason to believe and do believe that the records, or copies of the records, made by the election officers of the town or precinct are erroneous, specifying the reasons. Or, that they believe that challenged ballots were cast by persons not entitled to vote in the town or precinct. The statement must also include that they believe a recount will affect the nomination or election of one or more candidates for a specified office or the decision on a specific question.

In punch card towns, if a hand count of the ballots is desired, the request for a hand count must be stated in the petition. [54:135B]

The statement must be entered on the front of the form before any voters sign the back of the form.

Part of the statement is already printed on the form. Spaces are provided for the petitioners to include the reasons they believe the records are in error. All recounts shall be upon the questions designated in the statements or petition filed, and no other count shall be made, or allowed to be made, and no other information taken, or allowed to be taken, from the ballots on such recount. In addition, the wording of the statement appearing on the petition limits the availability of court action following a recount.

Example: A recount petition which claimed that certain absentee ballots were improperly counted "in that the applications were improper, and that there were improper affidavits and returns" sufficiently preserved that issue for judicial review. (see *McCavitt v. Reg. of Voters* (1982), 385 Mass. 833) However, a petition for recount asserting only that the petitioners had reason to believe that the records made by election officers were erroneous was insufficient to confer jurisdiction on the court to pass judgment upon the validity of applications for absentee ballots and to rule on the validity of the ballots which were returned pursuant to the applications. (see *DePetrillo v. Reg. of Voters* (1961) 342 Mass. 13) However, these cases apply to questions, such as whether or

not the witness was present when the ballot was voted, which go beyond the examination of the absentee ballot envelopes and applications at a recount.

You or the registrars should not attempt to give advice on what should be included in the statement on a recount form. Instead, recommend that the candidate or the petitioners consult a lawyer for such advice.

b. voters' signatures

The voters must sign the recount petition on the back of the form in column 1. There is room for 25 voters to sign on either a white or yellow petition form.

- number of signatures required

In towns without precincts, a petition for a recount must be signed by at least 10 registered voters of the town. In towns having precincts but 2,500 or fewer registered voters, or voting by grouped precincts in a primary, a petition for a town-wide recount must be signed by at least 10 registered voters of the town.

In precinct towns having more than 2,500 voters and voting by precincts, a petition for a town-wide recount must be signed by at least 10 registered voters in each precinct. A petition for the recount of a precinct, must be signed by at least 10 registered voters of that precinct.

A petition for a state-wide recount must be signed in the aggregate by at least 1,000 registered voters of the Commonwealth. There is no distribution requirement for the signatures.

A petition for a district-wide recount must be signed by one-fourth the number of registered voters required to sign nomination papers for state primary candidates in the appropriate district. For example, a petition for the office of state senator must be signed by 75 registered voters, one-fourth of the 300 signatures required on nomination papers for that office. (see 53:44) Those signing the petition must be registered voters in the district to which the petition relates.

On a state-wide or district-wide petition, only voters of a single city or town should sign on a given petition form since the petition must be submitted to the registrars for certification and cannot be

submitted to the registrars of two different communities. (see 4. Certification of Signatures on page 346)

- party enrollment [53:40A]

Petitions for a recount of the ballots cast at a primary of a political party may be signed only by voters enrolled in that party on or before the close of registration for the primary.

Voters enrolled in either party or unenrolled may sign a petition for a recount of the ballots cast in an election.

- form of signature

The voter's signature must be as registered, or substantially as registered. These requirements are the same as those for signatures appearing on nomination papers. (see NOMINATIONS in Volume 5 of this series)

- voter to sign in person

Each voter must personally sign his name on the recount petition, unless he is prevented by physical disability from doing so. In that case, the voter may authorize some other person to write his name on the petition in his presence.

c. voter's address

- street name and number, if any

On the back of the form, each voter must enter in column II his current address including street name and house number. He must enter in column III, his address, including street name, house number and city or town, on the previous January 1st only if it is different from the address entered in column II. If he is prevented by physical disability from writing, he may authorize some other person to write his address in his presence.

If a voter signs the petition but neglects to enter his address, the address should not be entered by someone else at a later time.

- precinct number

The precinct number may be entered by the voter to assist the registrars in certifying the signature. However, if the voter omits the precinct number, he should not be required to enter it at a later time. Note that under certain circumstances, the voter signing the petition must be registered in the same precinct as that entered on the top of the form. (see b. voters' signatures above)

d. subscriber's sworn statement

One of the voters who signed the petition must appear before a notary and swear that the statements contained in the petition are true to the best of his knowledge and belief. The notarial certificate appears at the bottom on the front of the form. While having another voter who signed the petition act as the notary may not invalidate the petition or recount, it should be notarized by someone else. (see Crosby v. Brd. of Election Commissioners (1966) 350 Mass. 544)

In many cases, the notarization takes place at the town clerk's office just prior to filing, but it may be notarized elsewhere before being brought in.

e. candidate's written request for recount

Each petition must be accompanied by the written request for a recount signed by the candidate on whose behalf the recount is being conducted. The request is printed at the top left on the front of the form. The candidate must sign each petition in the space provided under the request. For example, if a town-wide recount is petitioned in a town having 10 precincts, the candidate must sign on all ten forms since each form is considered a separate petition.

f. other information

At the top of the form on both the front and the back the following information must be entered in the spaces provided:

- CITY OR TOWN. The name of the town should be entered.
- WARD OR PRECINCT. The precinct number should be entered, if required. (see b. voters' signatures on page 341)
- OFFICE OR QUESTION TO BE RECOUNTED. If the ballots cast for an office are to be recounted, the title of

the office as it appeared on the ballot must be entered. If a question is to be recounted, the question number should be entered or, if only one question appeared on the ballot, the word "question" and an identifying title should be entered.

- PARTY DESIGNATION. For primaries only, the party name should be entered.

3. Filing the Petition

a. petition for town or precinct recount

- with whom filed

A petition for a town or precinct recount must be filed with the town clerk. Such a petition may be filed following a state or town primary, presidential primary, town preliminary, or a state or town election.

Upon receipt of a petition check to be certain all the required information has been entered. If some information has been omitted, inform the person presenting the petition what is needed. Do not enter information yourself and do not make any judgments or comments concerning the adequacy of the statements or reasons given in the statement.

If the notarial certificate on the front of the form has not been completed, it may be completed at your office provided there is a notary present and the person delivering the petition is also one of the voters who signed on the back of the form.

In some towns, if a town or precinct recount is being petitioned for and there are only 10 signatures on the form, the town clerk unofficially examines them to determine if they can be certified. If some are not certifiable and there is time before the deadline expires, the town clerk may suggest that the person obtain additional signatures.

If the petition is complete, time stamp it or note the date and time of receipt in the space provided at the top right on the front of the form. However, if the petition does not contain the candidate's signature, enough voters' signatures or has some other deficiency rendering it invalid, inform the person who presented it and the candidate involved. If the deficiencies cannot be corrected before the deadline expires, accept the petition as presented. The

registrars must make the official determination on the validity of the petition.

- deadline for filing

The petition must be filed on or before 5 P.M. on the 6th day following a regular or special primary or preliminary. It must be filed on or before 5 P.M. on the 10th day following a regular or special election.

For example, for a primary or preliminary held on March 25th, the recount petition must be filed by 5 P.M. on March 31st. For an election held on March 25th, the petition must be filed by 5 P.M. on April 4th. However, if the 6th or 10th day falls on a Sunday or holiday, the deadline is the following day.

- transmit petition to registrars

The town clerk must transmit a recount petition to the board of registrars as soon as possible after receipt. The General Laws require it to be transmitted "forthwith" and since timing with respect to recounts is critical, the transmission should not be delayed.

b. petition for state-wide or district-wide recount

- submission to board of registrars

Prior to filing a petition for a state-wide or district-wide recount, it must be submitted for signature certification to the board of registrars of the city or town in which the signers appear to be voters.

It must be submitted on or before the 3rd day and certification must be completed on or before the 6th day following a state or presidential primary. It must be submitted on or before the 10th day following a state election. The deadline for certification of a state election recount petition is not specified in the General Laws but must be completed in time to permit timely filing.

While not specifically required by the General Laws, it is suggested that you give a receipt to the person submitting the petition. Enter on the receipt, the date submitted, the name of the submitter and the office or question shown at the top on the front of the petition. Also enter the name and telephone number of the person to contact concerning the recount of an office or the name and telephone number of the person

designated by the petitioners for a recount of a ballot question. Keep a copy of the receipt in your office.

- with whom filed

A petition for a state-wide or district-wide recount must be filed with the state secretary.

- deadline for filing

The petition must be filed on or before the 7th day following a state primary and on or before the 15th day following a state election.

4. Certification of Signatures

The registrars must examine the signatures and certify those found to be registered voters on each petition they receive.

The voters may be registered anywhere in the town if the petition relates to a town-wide recount in a town without precincts, or in a precinct town having 2,500 voters or less, or in any precinct town in which all precincts were grouped. If the town has more than 2,500 voters and voted by precincts, the voters who signed the petition must be registered in the precinct entered at the top of the form.

If the petition relates to a state-wide recount, the voters who signed the petition may be registered anywhere in the town. If, however, the petition relates to a district-wide recount, the voters who signed the petition must be registered in the correct district. In towns divided between districts, the registrars will need to check the precinct number as well as the name and address of the voter.

For a primary, party enrollment of the signatories will also need to be checked. Only the names of voters enrolled in the party entered at the top of the form may be certified.

The procedure for certifying signatures on recount petitions is the same as for nomination papers. (see NOMINATIONS in Volume 5 of this series) A check mark should be made in the column entitled "CHECK" opposite the name of each registered voter qualified to sign. A code letter indicating the reason for disqualification should be entered opposite the name of each person found not qualified to sign the petition. The code is specified on the back of the form above the registrars' certificate.

On any petitions, the registrars do not need to certify a greater number of names than is required for holding the

recount increased by 1/5th. In most cases, the registrars do not need to certify more than 12 names on each petition. However, on a petition for a state-wide or district-wide recount, the registrars should certify as many signatures as possible unless the total required number plus 1/5th can be certified on the petitions signed by a given candidate.

Example: 75 certified signatures are required for a district-wide recount for state senator, 38 are required for a district-wide recount for state representative. If the registrars receive 4 petition forms signed by the same candidate for state senator, or 2 petition forms signed by the same candidate for state representative, the registrars may stop certifying signatures when 90 on the petitions for state senator or 46 on the petitions for state representative have been certified.

After certifying the signatures, the registrars must complete and sign the certificate appearing at the bottom of the form on the back. Enter the number of certified names in words followed by the numerals in parentheses. Enter the precinct number, if applicable, and the name of the town. At least three members of the board, one of whom may be the town clerk, must sign each petition. The registrars' signature stamp may be used if authorized by the board. Enter the name of the town and the date of certification on the last line.

A certified state-wide or district-wide petition should be returned to the person who submitted it, to a person who presents the receipt given out at the time the petition was received or who presents a written authorization signed by the candidate. As in the case of certified state nomination papers, it is essential that the petition be given to the proper person to ensure it is filed with the state secretary.

A certified town or precinct petition should be retained in the town clerk's/registrars' office safe since it must be produced at the recount.

B. SCHEDULING THE RECOUNT

1. Town and Precinct Recounts

a. registrars to set date

If the recount petition is in order and contains the required number of certified signatures, the board of registrars determines the date for holding a town or precinct recount. A recount must be held without undue delay but cannot be held before the last hour for filing recount petitions. The recount date may be set as soon as the petition is received. However, if more than one recount is

likely, it is advisable to wait until the filing deadline so that the same date can be set for all recounts petitioned for. Waiting will avoid the need to go through the ballots or examine the voting machines more than once in the event two or more petitions are filed.

Note: There is no specified margin of votes between candidates required for a precinct or town recount.

Usually the date set is the earliest possible after the deadline for filing petitions which will permit the required notices to be given. (see C. NOTICES REQUIRED on page 350) Following a town primary, it is important to decide the questions raised in the recount petition as soon as possible to permit the subsequent election ballot to be printed. After a town election, the successful candidate will need to be sworn into office as soon as possible.

For offices on a state or presidential primary ballot, the General Laws require that a recount be held within 6 days after the last day for filing the petition. For all offices and questions on a state election ballot the recount must be held within 10 days after the last day for filing a recount petition.

It is suggested that a recount be held during a weekday evening or on a Saturday to permit all those involved to be present.

Note: In voting machine towns, 54:135A requires that the voting machines be examined and the votes for the contested office be recorded within 5 days after the receipt of a recount petition. However, it may not be possible to comply with the requirements of both 54:135 and 54:135A in scheduling a recount. The recount should not be held prior to the last hour for filing a petition, even if the date set is more than 5 days after the petition was received. It is suggested that, whenever possible, you recommend to a candidate planning to file a recount petition that he wait until close to the deadline. That will permit the recount to be held within 5 days of receipt and after the deadline for filing petitions has expired.

Examples:

- primaries

If a recount petition is filed on the day after the primary, 54:135A would require the recount to be held not later than the day of the filing deadline. It would have to be held after 5 P.M. on that day under 54:135. Notices would have to be given before the

filing deadline. If a second petition were received on the 4th day after the primary, a second recount would have to be scheduled and a second set of notices would be required.

- elections

If a recount petition is filed on the day after an election, 54:135A would require the recount to be held not later than the 4th day prior to the deadline for filing the petition. The voting machines could be examined at that time under 54:135A. However, they should not be unsealed and made available for preparation for the next election following that recount. If a second recount petition were filed, the machines would have to be examined again. In any event, the absentee and challenged ballots, etc. should not be recounted under 54:135 until after the deadline for filing petitions has expired. Note that waiting to examine the machines until after the 10 day deadline has passed so that the entire recount could be held on the same day would not adversely affect the outcome.

2. State-wide and District-wide Recounts

The state secretary orders a state-wide or district-wide recount only if the difference in votes between the two leading candidates for the office or between YES and NO on the question for which the recount is petitioned, is more than 1/2 of 1 percent of the votes cast for the office or question. The order is sent to the town clerk and the registrars must then set the date and hold the recount "without unnecessary delay." The date set should permit the necessary notices to be given. (see C. NOTICES REQUIRED on page 350)

a. state election recounts

The state secretary must hold the recount petitions until after the official tabulation of the votes by the governor and council. (see 54:115) If the official tabulation shows a difference in votes to be not more than the required margin, the state secretary forthwith orders the recount.

If, however, the difference in votes is greater than the required margin, the petition for the recount is void and no recount is ordered or held.

Note: If a state-wide recount is petitioned for, all ballots cast at the state election must be retained by the city or town clerks for 60 days after the election.

b. state and presidential primary recounts

If a state-wide or district-wide recount petition is filed after a state or presidential primary, the state secretary orders the recount as soon as it appears to him that the difference in votes is within the required margin.

C. NOTICES REQUIRED [54:135,135A]

The registrars are required to give written notice of recounts. The notice may be mailed or hand delivered. If mailed, it is suggested that it be sent registered or certified, return receipt requested, although this is not required by the General Laws. If hand delivered, obtain a written receipt signed by the person to whom it was delivered. (see sample receipt on page 414) In either case, the receipt provides proof that the registrars complied with notice requirements.

1. Notice to State Secretary

Upon setting the date of any recount of a state primary or state election, the registrars must notify the state secretary. The notice must be in writing and include the office or question to be recounted, the time and place of the recount and the number of observers to which each candidate is entitled. (see sample notice on page 414) (see D. OBSERVERS on page 352)

The notice may be mailed or hand delivered to the Elections Division, One Ashburton Place, Room 1705, Boston 02108. In addition, it is suggested that you also notify the Elections Division by telephone, 727-2828, 1-800-462-8683 particularly if the recount is being held within a short time.

2. Notice to Candidates

The registrars must give each candidate for the office for which a recount was petitioned, including write-in candidates, if any, not less than 3 days written notice of the time and place of the recount. The notice should include the time and place of the hearing on challenged and escrow ballots. It is suggested that the notice also include information concerning the candidate's right to counsel, to appoint agents, the number of agents, etc. (see D. OBSERVERS on page 352) (see sample notice on pages 438 and 439)

If election material must be moved from the vault to another building, the time of removal should be included in the notice so that observers may be present. In voting machine towns, if machines must be examined in several locations or on a different day from the recount of absentee ballots, etc., the notice should specify the time and place for the machine

recount. If ballot boxes are stored at separate locations or in a location not convenient to the recount room, request in the notice that candidates notify you if they wish to examine ballot box registers so that you may make advance arrangements to have the boxes available.

The notice may be mailed or hand delivered to the candidate's address as it appeared on the ballot. In many towns, the notices related to recounts of the annual town election are usually hand delivered. If mailed, the 3 day required notice period starts when the notice is mailed, not when the notice is received by the candidate. It is suggested that, unless the notice is hand delivered, you also try to notify candidates or their local coordinators by telephone, particularly if the notice must be mailed out of town.

Note: In the case of a recount of ballots cast for offices which are filled by all the voters of the Commonwealth, the notice may be given to the duly organized state political committee instead of to each candidate individually. Check with the appropriate town committee chairman for the address to which the notice should be sent.

3. Notices for Recount of Ballot Questions

In the case of a recount of a question appearing either on a state election or on town election ballot, the registrars must give not less than 3 days written notice to the person designated by the petitioners. If no one has been designated either on the petition or by the person who presented the petition, notice may be sent to the voter whose statement was notarized or to a voter whose name was certified. Or, for questions on the state election ballot, contact the Elections Division to obtain the name and address of the designee.

The notice must include the time and place of the recount and the time and place of the hearing on challenged and escrow ballots. It is suggested that the notice include the same information as in the notice to candidates.

The registrars should also give such notice to a representative of any committee organized on the other side. For example, if the petition was filed by voters in favor of a question, the notice should also be sent to a representative of a committee opposed to that question.

54:135 provides that in the case of a question submitted to all the voters of the Commonwealth, one representative from any committee organized to favor or oppose the question must be permitted to be present and witness the recount. Usually for state ballot questions, there is an organized committee

representing each position. Contact the Elections Division to obtain the names and addresses of committee representatives.

There is no similar provision related to questions appearing on the ballot only in certain districts or on a town election ballot. There may not be any organized committee representing each position. However, notice of the recount should be sent whenever possible to a representative of a committee organized on the other side of the question.

4. Notices to Challenged and Escrow Voters and Others

Notice of the time and place of the hearing on challenged and escrow ballots should be sent to each challenged or escrow voter, to the person who challenged a ballot and to any witnesses. The notice should contain enough information so that the challenged or escrow voter can be prepared to substantiate his claim of eligibility to vote.

If, however, summonses are issued at the same time as notices would be sent out, a separate notice is not needed for those summoned. As much prior warning as possible should be given so that the interested persons can make arrangements to be present. (see sample form on page 413)

D. OBSERVERS

1. General

The recount must be conducted in public and all observers must be permitted in the room in which the recount is taking place. However, the general public and representatives of the news media should remain outside the recount area. In some towns, a guard rail similar to that used at an election is set up to mark the boundary of the recount area, but this is not required by the General Laws. The registrars and their clerks are sometimes provided with name tags including their official capacity.

Only the registrars and their clerks involved in recounting the ballots, the candidates, designees or committee representatives for ballot questions, their counsel and their agents should be permitted within the recount area.

2. Candidates - Ballot Question Designees

Each candidate for the office and designee or committee representative in favor or opposed to a ballot question being recounted is entitled to be present within the recount area.

3. Legal Counsel

Each candidate and ballot question designee or committee representative is entitled to be represented at the recount by legal counsel if he wishes. Unless, in voting machines towns, the machine recount takes place in more than one location simultaneously, there is usually only one counsel for each candidate or designee. However, there may be more than one if the candidate or designee wishes.

4. Agents

Each candidate may be represented by agents who must be permitted within the recount area.

a. appointment

The agents may be appointed either by the candidate, ballot question designee, committee representative or by his counsel. The appointment must be made in writing. The written appointment should be presented to the registrars before the recount actually begins.

b. number permitted

One agent for each officer counting or checking the ballots may be appointed.

In paper ballot towns or in punch card towns when ballots are hand counted, one agent may observe the clerk reading the ballot and another observe the clerk recording the votes. If there are 10 teams of clerks reading and recording the ballots, 20 agents may be appointed.

In punch card towns when ballots are hand fed into a computer, one agent may observe the person feeding ballots and another may observe the clerk watching the computer tape.

In voting machine towns, one agent may observe the clerk reading votes from printer pack or the backs of the machines and another may observe the clerk recording the votes. If voting machines are recounted in several locations at the same time, a team of agents may observe in each location. If absentee and challenged ballots are recounted at the same time as the machines, an additional team of agents may observe the team of clerks counting these ballots, the same as in a paper ballot town.

In addition, each candidate may have one observer for each person working on the total vote sheet.

Note that if an office is being recounted, there may be several agents observing one clerk. For example, if there were four candidates for the office and each has appointed agents, four agents will be observing one clerk. This should be taken into consideration when the recount area is prepared to permit ample room for the agents and clerks.

E. PREPARING FOR THE RECOUNT

1. Personnel

a. registrars

At least a majority of the board of registrars must be present at the recount. Formal votes must be taken by the board during the recount even if no ballots are protested.

If a majority cannot be present because of death, resignation, retirement, disability or absence from the town, the selectmen should appoint a temporary registrar. The remaining members of the board must submit a written request for such an appointment and the person appointed must be of the same party as the registrar whose position he is to fill. [51:20] Be certain that a temporary registrar has been sworn into office before the recount begins.

b. clerks

The registrars may employ such clerical assistance as they deem necessary. The registrars shall assign tally clerks to count the votes. The clerks do not need to be sworn. (7 Op. Atty. Gen. 1923, p.7)

- who may be employed

In many towns, the election officers or tellers who regularly work at elections and count ballots are employed for a recount and are assigned the same as for elections, one Democrat and one Republican in each team, although this is not required by the General Laws. The registrars may hire any competent persons to work at the recount.

If election officers or tellers are employed, it is recommended that they be assigned to count different blocks from those they counted on election night. Assigning one Democrat and one Republican to each team is recommended for recounts of state and presidential primaries and state elections and for recounts of town primaries and partisan town elections.

- number required

The number of clerks required depends upon the number of ballots to be recounted by hand and, in voting machine towns, upon the number and location of the machines to be recounted. A team of two clerks should be assigned to recount the ballots or voting machine printer packs, one to read and the other to record the same as for the original count on election night. If machine votes are to be read directly from the backs of the machines, a team of three clerks will be needed, one to read, one to observe the reader and one to record the votes.

Enough clerks should be employed so that the recount can be completed in a reasonable length of time, particularly if it is being held on a weekday evening. Unless a large number of offices or questions must be recounted, you will need fewer teams of clerks than teller teams required for the election.

c. runners

In some towns, clerks are employed to act as "runners." If a ballot is protested, the clerk brings the ballot from the counting table to the registrars for a decision, etc. (see G. 4. Protested Ballots on page 381) If a large number of counting tables are required, several runners should be employed.

d. stenographer

In some towns, the board of registrars hires a stenographer to record the proceedings related to protested, challenged and escrow ballots and the examination of rejected absentee ballot envelopes. In other towns, one of the registrars or the town clerk, acting as clerk to the board, records the proceedings.

e. constable or deputy sheriff

If the registrars plan to issue summonses in connection with the hearing on challenged and escrow ballots, a constable or deputy sheriff should be contacted as soon as the summonses have been prepared. He should serve the summonses as far in advance of the hearing as possible to permit the person to make arrangements to attend the hearing. It may be advisable that the constable or deputy sheriff be present at the hearing to give a report, particularly if he was unable to serve a summons.

f. town counsel

In some towns, town counsel is usually present at a recount to advise the board of registrars. In other towns, he is not, or is present only if the board expects that some problems may be encountered. In any event, the board may wish to arrange with town counsel that he be available by telephone during a recount should his advice be needed.

g. police officer or constable

In some towns, a police officer or a constable is present at recounts, particularly if a large number of observers is expected to attend. He assists the registrars as directed, primarily in maintaining order and being certain that unauthorized persons do not enter the recount area.

h. custodian of voting machines

In voting machine towns, the custodian of voting machines is sometimes present at recounts to crank up machines or to open the rear doors on printomatic machines. (see 4. b. voting machine towns on page 365 and G. 2. Voting Machine Towns on page 374)

i. other

If a large number of fibreboard boxes or if ballot boxes must be moved, others may be needed to assist, such as additional clerks, assistant registrars, custodians, etc.

2. Material

The following material will be needed for a recount.

a. tally sheets

New tally sheets should be prepared for the recount. Prepare them the same as for the election or primary except that only the offices or questions being recounted will appear on the sheets and the word RECOUNT, and the date of the recount should be added at the top of each sheet. (see PREPARING ELECTION MATERIALS, II. TALLY SHEETS in Volume 3 of this series)

- block tally sheet

In paper ballot and voting machine towns, a block tally sheet should be prepared for each block of paper ballots to be recounted. In punch card towns, a block

tally sheet will be needed for damaged and over-voted cards and for write-in votes. However, if the recount petition specified that a hand count of all punch card ballots be made, additional block tally sheets will be needed, one for each block to be hand counted. For a primary, the block tally sheets will be needed for each party involved in the recount.

Since most of the space on the block tally sheet will not be used, one tally sheet may be prepared and then copied onto 8 1/2" X 14" paper using the office copier. Extra copies may be made and provided to candidates and their agents for recording the votes as the clerks read and record. Or, a block tally sheet may be cut in half to make two tally sheets.

If challenged ballots were counted in a separate block on election night, a separate block tally sheet will be needed for challenged ballots. Another sheet will be needed for escrow ballots. Add CHALLENGED BALLOTS and ESCROW BALLOTS at the top of the sheets as applicable.

- total vote sheet

A total vote sheet should be prepared. In towns voting by precinct, a total vote sheet will be needed for each precinct being recounted. A town total vote sheet will also be needed unless only one precinct is being recounted. For a primary, a total vote sheet will be needed for each party involved in the recount.

In voting machine towns, a row may be needed on the total vote sheet for challenged ballots and another for escrow ballots, in addition to the rows for absentee ballots.

Trimming off the unused portion of the total vote sheet will make it easier to use. However, space will be needed for the registrars' statement. (see 1. 1. Registrars' Statement on page 399)

- write-in tally sheet

A separate write-in tally sheet may be needed if a large number of write-in votes were cast for the office being recounted. The names of write-in candidates may be entered since they will be known from the election results. However, spaces should be provided on the tally sheet to permit other names to be entered in case a write-in candidate, who was not recorded on the original tally sheet, must be added. In voting machine

towns, each voting machine on which write-in votes were cast should appear on the tally sheet.

b. forms

54:135, 135A and 135B do not require any forms other than block tally and total vote sheets to be used at a recount. However, in some towns, forms are prepared for use in connection with protested ballots, rejected absentee ballots, challenged ballots cast but subsequently rejected and escrow ballots.

- protested ballots (see G. 4. Protested Ballots on page 381)

A form as shown in the sample below may be glued or taped to the back of each protested ballot. It contains the information required to be entered and signed by a member of the board of registrars.

SAMPLE PROTESTED BALLOT FORM

Offices

Block Number _____
Office _____
Counted For _____ (name of candidate or blank)
_____ Member, Board of Registrars

Questions

Block Number _____
Question # _____
Counted: Yes ___ No ___ Blank ___
_____ Member, Board of Registrars

A form shown in the sample below may be used to record the vote of each member of the board of registrars on each protested ballot.

SAMPLE FORM FOR VOTE RECORD

OFFICE [title] _____ QUESTION [# or title] _____ PCT [#] _____

BLOCK #	[NAME]	REGISTRAR'S VOTES			COUNTED FOR	PROTEST		PROTESTED BY
		[NAME]	[NAME]	[NAME]		YES	NO	

Enter the name of a registrar where [NAME] appears in the above sample. At the recount, enter the name of the candidate for whom he voted under each registrar's name. The name of the person who protested the ballot may be added in the last column on the form.

- challenged and escrow ballots (see G. 5. Challenged and Escrow Ballots on page 386)

A form shown in the sample below may be glued or taped to the back of a challenged or escrow ballot.

Count _____ Block # _____
Do not Count _____
Registered elsewhere _____
Underage _____
Not a citizen _____
Not person claimed _____
Not registered _____
No I.D. _____
Protested: Yes _____ No _____

Registrars of Voters of [town] _____

A form shown in the sample below may also be used on which to record the registrars' votes with respect to challenged or escrow ballots.

SAMPLE FORM FOR RECORD

OFFICE [Title] _____ QUESTION [# or title] _____ PCT [#] _____

VOTER'S NAME	[NAME]	REGISTRARS' VOTE			COUNT		PROTEST	
		[NAME]	[NAME]	[NAME]	YES	NO	YES	NO

Note: If a form as shown in the sample above is being used for escrow ballots examined by the registrars in the office, the column entitled "PROTEST" is not needed since the registrars' determination on escrow ballots cannot be protested at that time. (see I. ESCROW BALLOTS on page 277)

Enter the name of a registrar where [NAME] appears in the sample above. At the recount, enter YES or NO to indicate how he voted under each registrar's name. The name of the person who protested the ballot may be added on the form. Use a separate similar form for escrow ballots.

- rejected absentee ballots (see G. 6. Rejected Absentee Ballots on page 392)

A form shown in the sample below containing the information required to be entered and signed by a majority of the board may be glued or taped to the back of the inner ballot envelope for every rejected absentee ballot.

SAMPLE FORM FOR REJECTED ABSENTEE BALLOTS

Ballot Rejected _____
Voter's signature omitted _____
Affidavit signed by person other than voter _____
Not witnessed _____
Witness was candidate _____
Unauthorized person witnessed _____
No inner ballot envelope _____
OV ballot-date mailed undetermined _____
Other _____
Ballot accepted _____ (specify reasons below)

Protested: Yes _____ No _____

Board of Registrars of [town]

A form similar to that shown in the sample under challenged ballots above may be prepared and used to record the registrars votes on rejected absentee ballots. Substitute the word REJECTED for the word COUNT in the appropriate column. The name of the person who protested the registrars' vote may be added on the form.

c. seals (see sample on page 439)

A supply of seals to be used by the registrars for sealing envelopes and boxes should be available. Recount seals, containing the statement required by 54:135, are commercially available. The number needed will be the same as the number originally needed for the primary or election being recounted.

d. envelopes

Several envelopes will be needed at a recount. A block envelope Form E-230A may usually be used, except in voting machine towns when votes cast on write-in paper have been protested. Enter on each envelope the type of election, the date of the election, the word RECOUNT, the date of the

recount and if applicable, the precinct number. A commercially available gummed label may be used instead of typing the required information on the envelope. Adjust the printed text on the label depending upon the type of ballots enclosed. (see PREPARING ELECTION MATERIAL, III. ENVELOPES in Volume 3 of this series)

The registrars' certificate of contents should also appear on the envelope.

SAMPLE CERTIFICATE OF CONTENTS

This is to certify that this envelope contains
[#]___ [protested] [rejected challenged]
[counted escrow] ballots. Precinct [#].

Registrars of Voters of [town]

Other information should also be entered as outlined below.

- protested ballots

Envelopes in which to seal protested ballots separately from other ballots should be available at the recount for each precinct. Enter on the envelope the words PROTESTED BALLOTS.

- rejected challenged ballots

Envelopes in which to seal rejected challenged ballots separately from other ballots should be available at the recount for each precinct. Enter on the envelope the words CHALLENGED BALLOTS - REJECTED.

- counted escrow ballots

Envelopes in which to seal the counted escrow ballots separately from other ballots should be available at the recount for each precinct. Enter on the envelope the words COUNTED ESCROW BALLOTS. If, however, some escrow ballots were counted in the office prior to the recount, the envelope in which these ballots were sealed at that time may be used.

e. report for board of registrars on challenged and escrow voters

It is suggested that prior to the recount, the records be searched and information obtained on each challenged and escrow voter to assist the registrars in deciding whether or not the person was eligible to vote in the election. With respect to the escrow voters, the records will have already been searched. However, unless the challenged voter was voting by certificate, it is likely that the records would not have been searched. In addition if the registrars consider it necessary, the police may be asked to investigate to determine if the escrow or challenged voter is a resident of the town.

The information obtained should be written up for each person and a copy provided to each registrar at the recount. Note however, that the information obtained from the records or from the police may not be the only evidence upon which the registrars' decision with respect to these ballots should be made. (see 1. ESCROW BALLOTS, B. 2. Registrars May Summon Witnesses and 3. Testimony and Evidence on pages 279 and 281)

f. copy of General Laws

It is suggested that a copy of the General Laws related to elections be available for reference at the recount.

3. Location

The General Laws do not specify where the recount must be held. It is suggested that you use a room for the recount as close as possible to the vault where the ballots and other official election material are being kept since these must be moved from the vault to the recount room. However, the room should be large enough, if possible, to accommodate the personnel involved in observing the recount, including those listed under 1. on page 352, the public and the press.

In paper ballot towns, the recount is held in one location even if the election or primary was held in precincts in different locations. In punch card towns, the recount must obviously be held where the computer is located, unless a hand count is specified in the recount petition.

In voting machine towns when the machines themselves must be examined, the recount may involve procedures in several locations. For example, the absentee and challenged ballots may be recounted in or near the town clerk's/registrar's office but the recount of ballots cast on voting machines will take

place where the machines are stored, either in the precincts or in a central storage area.

4. Equipment

Some of the equipment needed for counting ballots on election night will also be needed during a recount.

a. in all towns

- tables and chairs

A table and two chairs will be needed for each team of clerks counting paper ballots, hand counting punch card ballots, or counting the machine votes from printerpacks. It is suggested that the chairs be arranged at each table so that the two clerks are facing each other. While not required, this arrangement will make it easier for the candidates' agents to observe each clerk, particularly if there are several agents observing. The tables should be placed far enough apart, if possible, so that the reading of ballots at one table does not interfere with another.

A table and chairs should be provided for the clerks entering the votes and calculating the totals on the total vote sheet.

A separate table and chairs should be provided for the board of registrars. If possible, it should be large enough to accommodate the board members, each legal counsel present and the stenographer, if used. Or, two tables can be placed side by side, if necessary.

Note: In voting machine towns, when the ballots cast by machine must be read directly from the back of the machine, a table will be needed only for the clerk recording the votes. Those reading the machine vote or observing will stand.

- adding machine

An adding machine should be available for each clerk recording the votes and calculating totals on the total vote sheet. In some towns, an adding machine is also available for clerks working on the block tally sheets.

- red pens or pencils

Red pens or pencils should be provided for each clerk recording votes on a block tally sheet or on a

total vote sheet and extra pens or pencils should be available. Only red pens or pencils should be used.

- pens for registrars

Each registrar should be provided with a pen and extras should be available. It is likely that most registrars will bring their own pens, but you should be prepared in case they do not.

- glue or tape

If forms are used for protested ballots, etc. a bottle of glue or roll of tape will be needed. Rubber cement available in any stationery store is usually used since it holds paper well and will last as long as the ballots must be kept even if the recount is subsequently taken to court.

- extension cord

Depending upon the location of electrical outlets, an extension cord for the adding machine(s) may be needed.

- pencil sharpener

A pencil sharpener may be needed unless one is available in the room being used for the recount.

b. voting machine towns

In towns having nonprintomatic machines, the machines should be cranked up before the recount begins. If possible, use the power hoist drill. Also, if possible, the machines should be placed so that the large center rear door can be opened without moving the machines. The machines should not be opened, however, until after the recount actually begins. The machine seals should not be removed either before or during the recount.

In towns having printomatic machines, either the power hoist drill or a hand crank should be available in case a machine must be examined. On occasion, a machine pack slips when the platen is cranked to the right on election night and the numbers are blurred on all copies of the pack sheet. Sometimes, a candidate or his agent may ask to see the back of the machine during the recount even though the numbers on the pack sheet are clear.

Note: In some towns using printomatic machines, the machines themselves are examined at a recount instead of recounting the votes from the pack sheet.

In any case, the voting machine keys sealed by the election officers on election night must be available. However, do not unseal any machine key envelope until after the recount actually begins. (see F. 1. a. material to be transmitted on page 367)

c. punch card towns

Unless the recount petition specified that a hand count is to be made, the computer or ballot counter will need to be prepared. A new program should be prepared so that only the office or question appearing in the recount petition is counted. The test deck prepared for the election may be used to test the program. A test should be made a few days before the recount to insure that the computer is operating properly and programmed correctly. If not, the computer or the program should be adjusted. Enter on the test print-out, "Test, [date]" and add your signature.

If the punch cards are to be hand fed into the computer, the stacker tray to receive the counted cards must be available.

If all punch cards are to be hand counted, a mask may be prepared so that only the office or question to be recounted is exposed. Also, paper or card stock in a different color from the cards may be used. The punch card is placed on the colored paper to make it easier to see where the hole is punched and the mask is placed on top of the card. Prepare one mask and colored card for each team counting ballots.

Note: In Datavote towns, a mask or colored paper is not needed.

5. Conference/Information or Instructions

In some towns, the board of registrars regularly meets with legal counsel representing those involved or with the candidates, ballot question designees or committee representatives themselves prior to the day of the recount to discuss the procedures to be used and to answer questions. Each counsel or candidate, etc. then instructs the agents on their rights, the procedures, etc. Or, the registrars provide written information and instructions to those involved before the day of the recount.

In other towns, the registrars outline procedures and answer questions on the day of the recount immediately before the recount actually begins. Or, if there is no formal instruction, questions are handled as they arise during the recount. However, the registrars should meet with counsel and others

involved prior to the day of the recount to discuss procedures if requested to do so.

6. Candidates' Rights

All candidates, including write-in candidates, for the office being recounted have the same rights whether or not they filed a recount petition. Designees for a ballot question and committee representatives also have the same rights as candidates. A candidate's or designee's counsel and his appointed agents have the same rights.

Specifically stated in 54:135 is the right to watch and inspect ballots, tally sheets, and all other papers used in the recount and to watch every individual act performed in connection with the recount. Upon request, a candidate or designee may obtain and examine the record books and the election clerk's book; may require that a count be made of the number of persons checked as having voted on the voting list used at each precinct; and may examine the figures on each ballot box register. However, only the registrars and their clerks are permitted to handle the ballots and other official election material, computers or voting machines during a recount.

F. PROCEDURES BEFORE THE RECOUNT BEGINS

1. Transmit Official Election Material to Registrars [54:135,135A]

The General Laws provide that upon receipt of a recount petition, the town clerk shall transmit both the petition and the official election materials to the registrars.

a. material to be transmitted

The material to be transmitted is specified in 54:135 and 135A as follows and applies to all towns, regardless of the type of voting system used:

- envelopes or containers in which the cast ballots have been sealed;
- original tally sheets (block tally sheets and precinct and town total vote sheets);
- sealed envelopes containing the escrow ballots; (see 51:59A)
- envelopes or containers in which spoiled and unused ballots have been sealed;

- voting list used at the election (sealed in an envelope and including supplements and list of non-registered specially qualified voters, if any);
- certificates issued to omitted voters. (These should be in the voting list envelope);
- precinct or election clerk's election record;
- absentee ballot envelopes and applications for cast ballots;
- list of voters who were sent absentee ballots, with a notation as to whether such ballots were cast or rejected or whether such voter voted in person. (This is the absentee ballot disposition sheet and if prepared, the separate list of applicants);
- sealed envelopes containing the absentee ballots rejected as defective (sealed envelopes in 54:135 refers to the inner ballot envelopes. Rejected absentee ballots and applications may also be sealed in a manila envelope.) The return envelopes marked REJECTED AS DEFECTIVE should also be transmitted.

In addition, the certificates issued to absentee voters to vote in person, to correct errors on voting list, and supplementary registration certificates must be transmitted. These should be in the voting list envelope.

While not specifically included in 54:135, the absentee ballots received too late to be counted should also be available at the recount in case a candidate or designee requests that the return envelopes be examined.

Note: Ballot box keys should not be needed at a recount. Only the figures on the ballot box register, not the inside of the box, can be examined. However, if requested, the registrars should permit an examination of the envelope in which the keys were sealed on election night to show that the keys have remained sealed.

In voting machine towns, the following additional material should be transmitted:

- write-in paper which was removed from the machines on election night;
- envelopes containing the protective counter and machine seal number in which machine keys were sealed on election night;

- used envelopes containing the protective counter and machine seal number in which the keys were transmitted to the polls on election morning;
- completed and signed certificates of machine failure, that the machine was properly prepared and that candidate counters did not register 000, if any;
- proof sheets and copy of machine packs used in original count for printomatic machines.

In punch card towns, the following additional material should be transmitted:

- test deck used to test computer before the election and before the recount;
- computer printouts showing the test made before the election and before and after the count on election night;
- computer printout showing the test made before the recount;
- keys to the metal carrying cases.

Most of the material listed above will have been sealed in manila envelopes, fibreboard boxes, or in punch card towns, in the metal carrying cases on election night. (see ELECTION DAY, XIX. PACKING AND SEALING ELECTION MATERIAL on page 222)

b. remove official election material from vault

The official election material needed for the recount, should not be removed from the safe or vault until shortly before the recount begins. If the material must be moved to another building, remove it from the vault early enough so that the material is at the recount room close to the time specified in the notice.

Note: The General Laws provide that the election material be transmitted to the registrars forthwith upon receipt of a recount petition. However, this does not require that the material be physically moved at that time. Jurisdiction over the material is transferred from the town clerk, who received it on election night under 54:107, to the board of registrars, who must conduct the recount under 54:135, 135A or 135B.

While not specifically required by the General Laws, removing election material from the safe or vault should be

supervised by the registrars since they are responsible for the recount. However, candidates, their counsel or agents must be permitted to observe the procedures used.

If the recount room is next to the vault, the boxes containing ballots or other official election material can be removed one at a time. However, if the boxes must be moved to another building, they should all be removed from the vault at the same time and taken to the recount room. In either case, the boxes should be under the constant supervision of the registrars or agents authorized by them. Do not leave any official election material unattended at any time while it is outside of the vault or safe. If boxes are being moved from the vault one at a time, be certain that no unauthorized person enters the vault at any time.

2. Assign Clerks

The registrars should assign the clerks to their specific duties and be certain they are in the appropriate places.

3. Identify Persons Present in Recount Room

Before beginning the recount, the registrars should determine who is present in the recount room. If there is a large number of people present, the registrars may need to state the candidate's name and ask that he, his counsel and his agents step forward. The written authorization of each agent should be examined at this time.

All those officially involved in the recount should then be permitted to enter the counting area and stand or sit in the appropriate locations.

All others, including the public and news media representatives should be informed where they may stand outside the counting area and that they should not go beyond the guard rail, if provided, or interfere in any way with the recount. In some towns, the news media representatives are given a copy of the information and instructions provided to candidates at this time.

4. Examine Recount Petition

The recount petition containing the registrars' certificate should be available at the recount. The candidates, designees or committee representatives for ballot questions, agents or counsel should be permitted to examine it.

5. Examine and Open Box

Just before opening each box, the registrars should examine the seals to determine that they are intact. They should also examine the label attached to each box. It is suggested that the registrars state aloud that the box is sealed, properly labelled and state the contents of the box.

The candidates, ballot question designees, committee representatives, counsel or agents involved in the recount should be permitted to examine the seals and labels, if they wish.

After the examination, the box should be opened.

G. PROCEDURES DURING RECOUNT [54:135,135A,135B]

It is essential that all the proper procedures be followed during a recount and that the rights of each person entitled to be within the recount area are respected. A recount should not be hurried even if it seems to be taking more time than necessary. Rushing through a procedure may well give the appearance that something is being hidden and such an impression may cause unnecessary questions and problems.

In most recounts, few problems arise if proper procedures were followed at an election. Keep in mind that if ballots are protested, the candidate, agent or counsel is preserving the right to have a court review the ballot and to make a final determination on how the ballot should be counted. In some cases, a court should make such a determination. Protesting a ballot in no way implies that any official involved in the election or the recount was incompetent or acted improperly.

The town clerk and the registrars should be calm and courteous throughout the recount. On rare occasions, a candidate's counsel may seem belligerent or unnecessarily contentious or suspicious. Do not permit such an attitude to destroy your calm approach or to interfere with proper recount procedures. Keep in mind that the counsel may be acting for effect, either in an attempt to intimidate you and the registrars or to impress his client.

The recount includes counting all ballots cast, but votes cast for candidates under only those offices and/or votes cast under only those ballot questions shown in the petition(s) filed should be read and recorded. The recount also includes counting the number of unused and spoiled ballots, an examination of the envelopes containing rejected absentee ballots and related applications and an examination of the envelopes and applications related to cast absentee ballots and if requested, late absentee ballot return envelopes.

The registrars determine how protested ballots are to be counted, whether or not the challenged and escrow ballots should be counted and whether or not a rejected absentee ballot should have been rejected. The actual count of ballots is made by the clerks appointed by the registrars. The registrars themselves should not be involved in actually counting the ballots since they must determine how each protested ballot is to be counted.

The guidelines for counting votes at recounts are the same as outlined under ELECTION DAY, XVI. COUNTING BALLOTS, A. 6. All Valid Votes Must be Counted on page 153. The clerks counting the ballots at the recount should make an independent judgment, even if they know how the ballot was previously counted at the election.

Some of the procedures to be used during the recount will depend upon the type of voting system used.

1. Paper Ballot Towns

a. distribute blocks of ballots and recount block tally sheet

After the registrars open the box containing cast ballots, the block envelopes in which the ballots were sealed should be removed. If a primary is being recounted and ballots of both parties have been placed in the same box, only the block envelopes containing the ballots of the party being recounted should be removed.

Each block envelope should be examined so that those within the recount area may see that it is still sealed.

A block of ballots and the related recount block tally should be given to the team of clerks who are to recount the ballots. Be certain that the same block number appears on the block envelope and on the recount tally sheet. In most towns, the sealed block envelope containing the ballots and the original block tally sheet is given to the clerks who unseal the envelope.

Note: Unless all challenged ballots have been sealed in a separate block envelope or sealed in the last block of ballots, each block should be examined to remove any challenged ballots before distribution to the clerks. Enter the block number on a piece of paper and clip it to the challenged ballot. The registrars must make a determination at a hearing on whether or not to count these ballots. (see 5. Challenged and Escrow Ballots on page 386)

b. counting team to read and record votes

One clerk should read the votes and the other should record them on the recount block tally sheet. Use the same procedure for reading and recording as outlined under ELECTION DAY, XVI. COUNTING VOTES, B. 7. through 13. on pages 164-172, except that only the votes under the office or question being recounted should be read and recorded and except as outlined below.

Each ballot, except a challenged or escrow ballot, should be unfolded and spread out on the table in front of the reader so that the outside is visible to everyone at the table including the agents who are observing. At this time, the cancellation may be examined. If there is no cancellation and its lack cannot be easily explained, it is likely that the ballot will be protested. (see 4. Protested Ballots on page 381)

The ballot should then be turned over so that the inside is visible to all. The General Laws permit the observers to inspect ballots, but they should not be permitted to hold a ballot in their hands while inspecting it. Only the clerks recounting the ballots and the registrars may handle a ballot during a recount.

No marks are to be made on the ballots, and the recording clerk must use a red pen or pencil to record the votes.

If an observer protests (makes an objection) when the reader states the name of the candidate for whom a vote was cast or the answer to a ballot question or blank, the recorder should not record that vote at that time. The procedures outlined under 4. Protested Ballots on page 381 should be followed. However, the clerks should continue to read and record the rest of the ballots while waiting for the protested ballot to be returned.

c. return counted ballots to registrars

When the entire block has been recounted, including the ballots which were protested, the totals should be entered on the tally sheet and balanced. The ballots should be folded and placed back in the original block envelope with the original block tally sheet. The counting team should sign the recount tally sheet, place it in the envelope with the ballots and return the envelope to the registrars.

Note: If the original block envelope was badly torn when it was unsealed, a new block envelope may be used. In that case, enter the required information on the outside of the new envelope and enclose the original envelope with

the ballots. The clerks who recounted the ballots should sign the new envelope. Be certain that the correct block number and the number of ballots is entered on the new envelope.

Another block of ballots should then be distributed to the counting team until all blocks have been recounted. In some towns voting by precinct, all blocks of ballots from one precinct are recounted and the total vote sheet is completed before any blocks from another precinct are distributed. In other towns, ballots from the second precinct are distributed to teams after all blocks from the first precinct have been distributed but before the first precinct has been completed. In any event, be certain that the ballots of two precincts do not become mixed together. The votes must be recounted by precinct.

d. total vote sheet

The clerks assigned to the total vote sheet should check each block tally sheet to be certain that it balances and has been signed. The totals from the block tally sheet should then be entered on the total vote sheet, the totals calculated and balanced using the procedures outlined under ELECTION DAY, XVI. COUNTING BALLOTS, B. 15. on pages 173-176, except that the total vote sheet should be signed by the clerks who completed it and it will not contain an election clerk's certificate. If the election or primary was held by precincts, a separate total vote sheet should be completed for each precinct the same as for the original count.

Note: If escrow ballots are counted, the votes should be added to the total vote sheet, or precinct total vote sheet if applicable, before the totals are calculated. (see 5. Challenged and Escrow Ballots on page 386)

2. Voting Machine Towns [54:135A]

The procedures to be used for recounting absentee ballots are the same as for paper ballot towns. (see G. 1. a. through d. above) Note, however, that the fibreboard box will contain official election material in addition to the counted absentee ballots.

In towns having printomatic machines, the absentee ballots may be counted at the same time and in the same location as the printer pack sheets and write-in votes.

In towns having nonprintomatic machines, it may be more convenient to recount the absentee ballots and write-in votes before or after the machines are examined unless the machines

are all stored in the same location, since the machines themselves will need to be examined to obtain the votes. The recount of all votes, on machines and on paper ballots and write-in paper, should be completed before any recount results are announced.

In either case, several teams of recount clerks may be used so that absentee ballots, write-in votes, and machine votes can be counted simultaneously.

a. recounting machine votes

The specific procedures used will depend upon whether or not the machines are printomatic. However, observers should be permitted to examine, but not handle, key envelopes, keys, proof sheets, printer packs, and the machines. Note that the certificates of machine failure and certificates of counters not registering 000 or the election clerk's record may need to be examined to be certain the correct numbers are subtracted from the public and candidate counters during the recount.

- printomatic machines

The pack sheets used to count votes on election night should be removed from the fibreboard box and given to a team of clerks. One should read the numbers recorded on the sheet and the other should record the numbers on the total vote sheet. Use the same procedures as outlined under ELECTION DAY, XVI. COUNTING BALLOTS, C. 2. d. through f. on pages 178-183 except that only the numbers in the columns used by the office or question being recounted should be read and recorded and the pack sheets should be returned when completed to the registrars instead of to the election clerk.

Note: In some towns having printomatic machines, the votes to be recounted are read directly from the backs of the machines instead of from the pack sheets. In this case, follow the procedures outlined below for nonprintomatic machines.

In some towns voting by precincts, the reading and recording from all pack sheets from one precinct and the total vote sheet is completed before starting to read and record the votes from another precinct. In other towns, several teams of clerks are used to recount the machine votes and the packs from several precincts are recounted simultaneously. In that case, be certain that the packs are kept separate by precincts.

Upon request, permit the key envelopes to be examined even if the machines themselves are not examined.

- nonprintomatic machines

-- machine keys

First check each key envelope to be certain it is sealed. It may be shown to the candidates, counsels or agents who care to look at it. In some towns, numbers entered on the sealed key envelopes are then compared to the numbers on the protective counter and the machine seal before the envelope is opened. Any discrepancies should be explained and recorded in the recount record.

Note: If the machine seal is inside the front doors, the seal number entered on the envelope cannot be compared with the number on the seal until after the envelope is opened.

-- open top rear door

Unlock the top rear door and open it. At this time, observers can check the write-in paper to determine whether or not it has been removed.

-- open center rear door

Unlock and open the center rear door, using the latch.

Note: For printomatic machines, key number 4 usually used only by the custodian of voting machines, must be available at the recount since that key is needed to open the center rear door. On some machines, key number 4 unlocks the lowest rear door and the center door can then be opened using the latch.

-- read and record numbers on counters

The numbers on the candidate or question counters should be read and recorded by the counting team using the same procedures as outlined under ELECTION DAY, XVI. COUNTING BALLOTS, C. 3. on pages 183-185, except that only the counters used for the office or question being recounted should be read. One clerk should read, a second clerk should observe to be certain the numbers are read correctly and a third clerk should record.

Permit each candidate or agent to examine the counters closely if he wishes. If necessary, stop reading the counters to permit the examination. Or, permit the examination after the reading and recording for that machine has been completed before proceeding to the next machine.

-- close and lock doors

After the numbers on the counters have been read and recorded, the rear doors should be closed and locked. If the front doors have been opened, they should be closed and locked.

Note: Ordinarily, the front doors of the machine are not opened during a recount unless that is where the machine seal is located or unless a candidate or his agent asks to examine the front of the machine.

b. recounting write-in votes

The procedures for recounting write-in votes for both types of machines are the same as outlined under ELECTION DAY, XVI. COUNTING BALLOTS, C. 4. on page 185, except that the write-in paper will need to be removed from the fibre-board box instead of from the machine and the recounted papers should be returned to the registrars instead of to the election clerk. Read and record write-in votes appearing only in the columns on the paper which relate to the office being recounted. If only a question is being recounted, write-in paper should not be removed from the fibreboard box since it is not part of the recount and information cannot be taken from it during the recount.

All write-in votes entered in the appropriate columns should be examined even if the election tellers circled in red the votes they counted on election night. Those counting the write-in votes at the recount should use their own judgment as to whether or not a particular write-in vote should be counted even if they disagree with the election tellers.

If a large number of write-in votes must be recounted, it is suggested that the clerks make a check mark next to each write-in vote which they count to prevent the same vote from being counted twice by mistake.

A write-in vote may be protested at the time it is read from the paper. (see 4. Protested Ballots on page 381)

c. total vote sheet

The procedures for completing the total vote sheet are the same as outlined under ELECTION DAY, XVI. COUNTING BALLOTS, C. 6. a. through f. on pages 192-196. In towns voting by precincts, a total vote sheet should be completed for each precinct.

Note: If escrow ballots are counted, the votes should be added on the total vote sheet before it is completed. (see 5. Challenged and Escrow Ballots on page 386)

3. Punch Card Towns [54:135,135B]

The procedures used in punch card towns will depend upon whether or not a hand count has been requested in the recount petition.

a. hand count

If requested in the petition, all punch card ballots must be hand counted including those which were counted by computer on election night. During the hand count, a ballot may be protested the same as a paper ballot. (see G. 1. b. counting team to read and record votes on page 373 and 4. Protested Ballots on page 381)

A hand count of punch card ballots is governed by the same standards which govern a recount of paper ballots. The will of the voter, if it can be determined with reasonable certainty, must be given effect. If a hole was punched in the rectangle with the same number as, or on a Datavote card opposite the name of, a candidate and in a rectangle related to a blank, the vote should be counted for the candidate. There are no other specific rules to follow such as counting every pin prick or every punch through which any light can be seen. Each punch card should be examined for any pattern followed by the voter. (see McCavitt v. Registrars of Voters, (1982) 385 Mass. 833, 836-839)

- punch cards

The metal carrying case will need to be opened to obtain the punch card ballots. First, the registrars should examine the case to be sure it is still sealed and locked and permit those within the recount area to examine it if they wish.

Then remove punch cards from the metal carrying case. Arrange the cards in blocks and distribute them to the counting teams with a block tally sheet. Be

certain that the block number has been entered on the tally sheet. Note that the block tally sheet must contain the name of the candidates or YES and NO for questions and the number assigned as shown on the ballot card booklet, unless Datavote cards are used. For Datavote, a number is not needed.

In some towns, each block of punch card ballots is placed in a block envelope. If so, enter the type and date of the election, the date of the recount, and the word RECOUNT in large letters at the top of the envelope. Enter the block number in the space provided and distribute it to the clerks with the tally sheet and ballots.

One clerk in the team should place the ballot on the colored paper or card and place the mask over the card, if these items have been provided. He should then read the number of the rectangle which has been punched. However, in Datavote towns, the name of the candidate or the answer to the question opposite the hole punched should be read.

The other clerk should record the vote on the block tally sheet using the procedures outlined under ELECTION DAY, XVI. COUNTING BALLOTS, B. 8. and 9. on pages 165-170. When the block of ballots has been counted, the totals should be calculated, entered on the sheet and balanced as outlined under ELECTION DAY, XVI. B. 12. on page 172. Both clerks should sign the sheet and return both the ballots and the sheet to the registrars. Be certain that ballots for each precinct are kept separate.

Note: All write-in over-voted and damaged cards must also be counted by hand by a counting team. Use a block tally sheet and the same procedures used on election night outlined under ELECTION DAY, XVI. COUNTING BALLOTS, D. 3. e. (2) on page 211.

The totals from the block tally sheets must be entered on the total vote sheet the same as outlined under ELECTION DAY, XVI. B. 15. on page 173 except that the work is done by the counting team instead of election officers. If any escrow ballots are counted, these votes must be entered on the total vote sheet. The two clerks who completed the total vote sheet should sign it. There is no election clerk's certificate.

If block envelopes are used, the ballots should be placed in the envelope. Check to be sure that the

clerks who counted the ballots have signed the envelope and that the block number and number of ballots has been entered. Then seal the envelope. Note that the ballots sealed in block envelopes will not fit in the metal carrying case after the recount has been completed. They should be sealed in a fibreboard box.

In other towns, the punch card ballots in the block are kept together with an elastic. In this case, after counting the ballots, the tally sheet is folded and placed under the elastic around the ballots. Be certain that the tally sheet and the block of ballots do not become separated.

- write-in votes

If there were any write-in votes for the office being recounted, these votes must also be recounted. The manila envelope in which the used gray write-in envelopes were sealed on election night, must be opened and the gray envelopes removed. It is suggested that before opening the envelope the registrars give all candidates or their agents an opportunity to observe that the envelope is sealed.

Note: If the original tally and total vote sheets show that no write-in votes were cast for the office being recounted, the envelope does not need to be opened unless a candidate or his counsel requests it. The registrars should ask if anyone wishes to examine the write-in envelopes.

The write-in votes should be counted using the same procedures as outlined under ELECTION DAY, XVI. COUNTING BALLOTS, D. 3. e. (2) on page 211, except that only the office being recounted should be read and recorded and the counting team signs the block tally sheet. The gray write-in envelopes should be placed back in the manila envelope and returned with the tally sheet to the registrars. The write-in votes must be entered on the total vote sheet.

b. computer count

If a hand count has not been requested on the petition, punch cards must be recounted by computer and only over-voted and damaged cards and write-in votes should be hand counted using the same procedures as on election night outlined under ELECTION DAY, XVI. D. 3. e. on page 209. except that the registrars would sign the computer printouts, the before and after count test printouts and the printout showing the counted votes.

The total vote sheet must be completed the same as outlined under ELECTION DAY, XVI. D. 4. on page 214, except that there is no election clerk's certificate on the sheet.

Note: Under either a. or b. above, the write-in votes may be protested the same as paper ballots. (see G. 1. b. counting team to read and record votes on page 373 and 4. Protested Ballots below)

4. Protested Ballots

Any paper ballot, including absentee and challenged ballots in a voting machine town, may be protested. In voting machine towns, a write-in vote appearing on the write-in paper and in punch card towns, on a gray write-in envelope, may be protested. Any punch card ballot which is hand counted may be protested.

A protest is not possible for ballots cast by voting machines or on punch cards counted by computer since the individual votes or punch cards cannot be examined. However, if a punch card ballot is rejected by the computer during the recount and hand counted, that ballot can be protested.

The protest may be made by any candidate, ballot question designee or committee representative, counsel or agent involved in the recount. He makes his protest by saying "I protest," "I object to that vote" or some similar words immediately after the name of the candidate or the answer to a ballot question or a blank is stated by the clerk reading the ballots. In that case, the vote should not be recorded and the following procedures should be used.

Note: The person who protests the ballot is not required to state any reason for his protest.

a. clerks to call runner

If runners have been employed, the counting team should call a runner and give him the protested ballot. Otherwise, they should call the registrars and give them the ballot. The runner and registrars will need to know the number of the block from which the ballot was taken. The block number should be written on a piece of paper and clipped to the protested ballot before it is given to the registrars.

Then the counting team should continue to count the rest of the ballots in the block. They should not complete the tally sheet or turn in the block of ballots, however, until they have received the protested ballot and counted it as directed by the registrars.

If a vote cast on a machine write-in paper is protested, the entire paper should be taken to the registrars' table, or the registrars should go to the table where the write-in votes are being counted and counting the write-in votes on that paper is interrupted while the registrars decide how to count the protested vote. Or, the reading clerk should enter on the write-in paper PROTESTED next to the vote. That vote should not be recorded at that time. The rest of the votes on the paper should be read and recorded. Then the paper should be taken to the registrars to determine how the protested vote should be counted.

b. registrars to determine count

The registrars should examine each protested ballot, or protested vote on a punch card gray write-in envelope or on a machine write-in paper as applicable to the type of voting system used and determine how it should be counted. (see guidelines outlined under ELECTION DAY, XVI. COUNTING BALLOTS, A. 6. on page 153) The examination and decision should be made in the presence of the counsel or others at the table and each should be permitted to examine, but not handle, the ballot, punch card gray write-in envelope or machine write-in paper.

The registrars determination should be made by formal vote and the vote of each registrar recorded in the recount record by registrar's name. The vote may be recorded on a form prepared for this purpose or noted by the clerk or stenographer assigned to recording the recount proceedings. (see sample form on page 359) If the form is used for protested votes on a machine write-in paper, enter the machine number in the column entitled BLOCK #. For a protested vote on a punch card gray write-in envelope, enter in the column entitled BLOCK #, the write-in number shown on the gray envelope. Also enter "wi" next to the number so that the write-in vote can be distinguished from the block and ballot number related to a protested punch card ballot if punch card ballots are hand-counted. For a protested vote on a hand-counted challenged or over-voted ballot, enter CV or OV and the number assigned to the ballot as well as the block number, if any.

If more than one ballot in a block of paper or hand-counted punch card ballots or on a machine write-in paper has been protested, an additional identifying number should be entered in the column entitled BLOCK # so that the entry on the form or in the record can be matched at a later time to the ballot or vote to which it relates, if necessary.

Examples:

Two ballots in the same block were protested. Enter a block number and a ballot number in the record or on the form, such as 8-1, 8-2, etc.

Two votes on a given machine write-in paper were protested. Enter the machine number and a vote number in the record or on the form, such as 120046-1, 120046-2.

c. counsel do not protest

If all counsel or others present at the registrars' table decide not to protest at this time, the runner should return the ballot to the clerks counting the block of ballots from which it was taken. The runner should inform the clerks of the registrars' ruling and the vote should then be recorded in accordance with that ruling. The ballot should be placed with other ballots in the block and returned with them to the registrars when the block has been completed. No information should be entered on the ballot, but a check mark should be made on the form used to record the registrars' determination in the column entitled PROTEST under NO, or an entry should be made in the record, if a form is not used, to show that counsel did not protest the registrars' determination. If the word PROTESTED was entered by the counting clerks next to a vote on a machine write-in paper, a registrar should cross out PROTESTED and add his initials to indicate that counsel did not protest the determination. (see 3rd paragraph of a. clerks to call runner on page 382)

For a write-in vote appearing on a punch card gray write-in envelope or on a machine write-in paper, the envelope or paper should be returned to the counting team. After recording the vote, the envelope should be placed with other envelopes containing no protested votes. The machine write-in paper should be placed with other write-in papers containing no protested votes.

d. one or more counsel protest

If one or more counsel or others present at the registrars' table protest the decision made by the registrars, the following procedure should be used.

- registrar to enter information on ballot

One of the registrars must enter on the back of the protested ballot the number of the block from which the ballot was taken, the office title and the name of the candidate for whom the ballot should be counted, or the

ballot question number and the answer, or "blank," as applicable. If more than one ballot from a given block is protested, the block number and ballot number, for example 8-1, 8-2, etc., should be entered on the ballot. The registrar must then sign his name directly under the information entered.

This information will be needed by the court should the recount be appealed and it is essential that it be entered. Omitting this information has resulted in rendering a recount invalid. (see Davis v. Reg. of Voters, (1970) 357 Mass. 615)

The information may be entered directly on the ballot. Or, a form as shown in the sample on page 358 may be used, particularly for paper absentee ballots since there is very little clear space in which to enter information around the printed instructions.

If a punch card ballot is protested, the information may be entered directly on the punch card or a form may be taped to the ballot provided holes punched in the card are not covered. If a write-in vote is protested, the registrar should enter the required information on the back of the gray write-in envelope, except that block number would not be entered.

If a vote cast on a machine write-in paper is protested, a registrar should draw a box around the protested vote. Then enter the office title and name of the candidate for whom the vote was counted or "blank" next to the box and sign his name. A block number is not entered, but if more than one vote on a given write-in paper has been protested, each vote should be numbered.

The registrars should enter information using a pen instead of a pencil. Red ink is recommended.

- count ballot

The ballot should then be returned to the counting team which should record the vote in accordance with the registrars' determination on the tally sheet for the block from which it was taken.

Note: If the registrars' vote on how to count the ballot is a tie, it should be counted in accordance with the original decision made by the counting clerks.

After counting the ballot, it should be immediately returned to the registrars. It should not be mixed with the unprotested ballots of that block.

If a voting machine write-in vote was protested, the vote determined by the registrars should be recorded on the machine total vote sheet or separate write-in tally sheet, if used. A punch card write-in vote should be recorded on the write-in tally sheet.

The entire write-in paper on which the protested vote was cast, or the gray write-in envelope, should be returned to the registrars. It should not be mixed in with other write-in papers or with the gray write-in envelopes having no protested votes.

Note: See H. 1. Return All Official Election Material to Proper Container on page 396 for amendments to be made on the block envelope containing ballots, the manila envelope containing punch card write-in envelopes or the fibreboard box containing write-in paper on which no protested votes appear.

- place protested ballot in envelope

The protested ballot should then be placed in the manila envelope marked PROTESTED BALLOTS since after the recount, it must be sealed separately from all ballots not protested. A protested ballot envelope should be provided for each office or question being recounted. Ballots should be placed in the appropriate envelope. For example, if the office of selectman and assessor are both being recounted because two recount petitions were filed, a ballot protested by a selectmen candidate or his agent should be placed in a different envelope from a ballot protested by an assessor candidate or his agent. If, however, a ballot is protested by both the selectman and the assessor candidates, it should be placed in a third envelope marked PROTESTED BALLOTS SELECTMEN/ASSESSOR.

If the selectman candidate should appeal the recount, only ballots protested by him or his agent would be produced in court, not the ballots protested by the assessor candidate, except by specific order of the court. Ballots protested by both candidates would also be produced in court regardless of which candidate appealed.

In voting machine or punch card towns, if a write-in vote were protested, the write-in paper or gray write-in envelope should be placed in the protested

ballot envelope. Machine write-in paper may be too large to place in an envelope and in that case, it may be placed in a fibreboard box labelled PROTESTED BALLOTS.

5. Challenged and Escrow Ballots

At the recount the registrars must examine all ballots cast by or for challenged voters whether or not the item related to challenged voters has been checked on the recount petition. The registrars must also examine all escrow ballots whether or not the number of such ballots may affect the results. All escrow ballots should also be examined at the recount even if some were counted in the office before the recount was held. [54:135,135A]

At some time during the recount, a hearing should be held if any challenged ballots were cast or any escrow ballots were marked during the election. The purpose of the hearing is usually to determine whether or not the person who marked the ballot was entitled to vote in the primary or election being recounted or to determine a person's true identity. However, other decisions may be required. For example, if a voter marked an escrow ballot because his name was already marked on the voting list when he came in to vote, the registrars would decide during the recount whether or not to count the escrow ballot and in this case, may need to obtain testimony from the election officers who worked at the check-in table on election day.

a. time of hearing

The specific time when the hearing on challenged and escrow ballots should be held is not specified in the General Laws. It is suggested that it be scheduled to begin immediately following the recount of other ballots.

If the recount of other ballots shows that the results cannot be changed by the challenged and escrow ballots, the candidates, designees or their counsel may all agree that there is no need to hold the hearing and considerable time can be saved. In this case, however, the registrars should call the hearing to order and state for the record that all agreed to waive the hearing. (see c. call hearing to order on page 387) The challenged ballots and any escrow ballots previously counted in the office should be recounted and the votes included on the total vote sheet. (see i. count ballot on page 390)

The hearing may be held before the recount of other ballots. However, holding the hearing while other ballots are being counted is not recommended, since it would be

difficult for the registrars, candidates, designees or their counsel to divide their attention between the hearing and the recounting of other ballots which might be protested.

b. board may summon witnesses or documents

The board may issue summonses to require that the persons who challenged ballots or who marked the challenged or escrow ballots and witnesses be present or that documents be provided at the hearing. The board should issue a summons to any person upon the request of a candidate, designee or his counsel or may delegate the authority to issue summonses to a notary public or justice of the peace. Procedures are outlined under 1. ESCROW BALLOTS, B. 2. on page 279.

Notice of the hearing should have been given to each person who challenged a ballot, who marked a challenged or escrow ballot unless they were summoned and to candidates, ballot question designees and representatives of committees and their counsel. (see C. NOTICES REQUIRED on page 350)

c. call hearing to order

The hearing should be formally called to order by the chairman of the board of registrars. A general statement concerning notices given or summonses issued, such as, "Notice was given [summonses issued] to all persons whose names appear on challenged and escrow ballots marked at the primary [election] of [date]. Summonses were issued to [names of witnesses]. Notice of the hearing was given candidates, [ballot question designees, etc.] and to their counsel. Returns have been received from all but [names]." Or, a specific statement may be made just before a particular ballot is considered during the hearing. The registrars should also inform those present of the procedures which will be used.

d. hold hearing on each ballot, one at a time

Each ballot should be heard separately and challenged ballots heard separately from escrow ballots. The escrow ballot envelope in which the ballots are sealed should not be opened until just before those ballots are to be heard.

The name and address of the person who marked the ballot should be stated just before the ballot is heard. In punch card towns, the name and address of the challenged or escrow voter appears only on the gray write-in envelope. Each challenged punch card ballot should be placed in its related gray write-in envelope before the hearing, if this was not done on election night. Each escrow punch card

ballot will have already been placed in its related gray write-in envelope before being sealed in the manila escrow ballot envelope on election night or, if applicable, after it was counted in the registrars' office following the election.

e. testimony and evidence, examination/cross examination

The procedures for making presentations, written and verbal evidence, examining and cross-examining witness are outlined under I. ESCROW BALLOTS, B. 3. Testimony and Evidence on page 281. Each counsel present should be permitted to make a presentation, present evidence, call and examine witnesses, cross-examine witnesses called by others and present arguments of law. Arguments of law would involve citing applicable sections of the General Laws and/or referring to previous court cases related to the question and issues involved. If a candidate or designee is not represented by counsel, he should be permitted to present his case for himself. The challenger and the persons who marked a challenged or escrow ballot may present evidence as well and may be cross-examined. The testimony and written evidence presented will depend upon the reason the person was challenged or was permitted only to mark an escrow ballot.

The oath appearing under I. ESCROW BALLOTS, B. 3. on page 282 should be administered by a registrar to each witness, challenger, or person who marked a challenged or escrow ballot before he gives any testimony.

The registrars may ask any questions directly related to the person's eligibility to vote, his identity, etc. and may ask the person to produce written evidence of his eligibility or identity. However, neither a challenged nor an escrow voter can be asked or required by anyone to reveal how he voted, nor can the inside of his ballot be examined at this time. His right to a secret ballot must be protected.

The registrars may refer to the written report prepared for the hearing, if any. Or, if the recount is being held near their office, they may refer to the records themselves. However, their decision should be based upon all the evidence presented at the hearing, not only upon their records.

f. registrars to make determination

After all testimony has been given, written evidence presented, and the counsel have completed examining and

making their arguments, the board of registrars must decide whether or not to count the ballot. The decision on each ballot should be made by formal vote immediately after that ballot has been heard.

If a majority of the registrars vote in favor of counting the ballot, it should be counted. For challenged ballots, a tie vote also results in counting the ballot since the presumption is that challenged ballots should be counted. However, for escrow ballots, a tie vote results in not counting the ballot since the presumption is that an escrow ballot should not be counted.

The name and address of the challenged or escrow voter and how each registrar voted should be recorded by registrar's name. Whether or not the determination of the registrars was protested should also be recorded. The name of the person who protested may also be recorded. (see h. registrars' determination protested on page 390) A form may be used for this purpose. The record for challenged voters should be separate from the record for escrow voters. (see sample form on page 360)

Examples of when the registrars would make a determination to count a ballot are as follows:

If a voter was challenged because he could not present suitable I.D. when requested, but produces such I.D. at the hearing, his ballot should be counted. Or, if an absentee ballot was challenged because the challenger claimed the voter was not physically disabled and the voter produces a doctor's notarized statement of disability, the ballot should be counted. (see I. ESCROW BALLOTS, B. 3. for examples with respect to escrow ballots)

g. registrars enter information on ballot

The registrars should enter their decision on the back of the ballot and each registrar who agrees with the decision should sign the entry. A form may be glued or taped to the ballot or the information entered directly on it. In punch card towns, the information may be entered on the back of the punch card, but it is preferable to enter it on or glue a form to the related gray write-in envelope. (see sample form on page 359)

Note: Information is not required to be entered on a ballot which the registrars decide should be counted. However, if that decision is protested, information must be entered and the form shown in the sample is designed for this purpose.

If a challenged ballot counted on election night is rejected during the recount, the registrars must add the reasons for their determination, such as, "not a resident," "underage," etc. (see ELECTION DAY, IX. D. CHALLENGED BALLOTS on page 80) If an escrow ballot was counted before the recount (see I. ESCROW BALLOTS on page 279) but rejected during the recount, the reasons for rejecting must also be entered on the ballot.

h. registrars' determination protested

The registrars' determination of whether or not to count the ballot may be protested at this time. If so, enter on the ballot near the entry to count or not to count, the word PROTESTED or check the appropriate item on the form, if used. If a determination not to count is protested, the ballot should not be counted. It should be placed in the protested ballot envelope. If a determination to count a ballot is protested, the ballot should be counted as outlined under i. below and then placed in the protested ballot envelope.

i. count ballot

If the registrars determine that a challenged ballot should be counted, it should be given to the counting team which is counting ballots of the block from which the challenged ballot was taken. The team should count the ballot the same as other ballots in the block. (see Note: below)

In punch card towns, challenged ballots are usually counted by hand, but the ballot cards may be counted by computer unless a hand count of all punch card ballots has been requested in the recount petition. The punch card may be separated from its related gray write-in envelope before it is given to the counting team (unless a write-in vote is to be counted) and may be put back in its related gray write-in envelope after it is counted. If the registrars' determination to count the ballot has been protested or a vote is protested during a hand count, however, the punch card must be put back into its related gray write-in envelope before being placed in the protested ballot envelope.

If the registrars determine that an escrow ballot should be counted, it should be given to the team counting those ballots. Counted escrow ballots should be kept together and after counting, placed in a block envelope marked COUNTED ESCROW BALLOTS. Enter the number of ballots enclosed on the outside of the envelope. The votes should be entered on the total vote sheet.

In punch card towns, escrow ballots must be hand counted. The punch card should not be separated from its related gray write-in envelope before it is given to the counting team and must be put back in the gray envelope immediately after it is counted whether or not the registrars' determination to count has been protested or a vote is protested during the count.

Challenged and escrow ballots may be protested while being counted the same as other ballots. If one is protested at this time, follow the procedures outlined under 4. Protested Ballots on page 381.

Note: 54:136 provides that no officer recounting ballots shall, except as required by law, make any statement or give any information relative to a ballot cast by a challenged voter. This provision also applies to an escrow ballot. The counting team should not permit the candidates or agents observing the count to examine the outside of a paper ballot or the outside of a punch card gray write-in envelope since that would violate the person's right to a secret ballot. If the recount is taken to court, the court may order the vote to be revealed to determine the election result.

j. penalty [56:14,56]

The penalty on any officer whose duty is to recount ballots cast at a primary or election who makes any statement or gives any information in regard to a ballot cast by a challenged voter, except as required by law, is a fine of not more than \$100.00 or imprisonment for not more than 6 months. [56:14]

The penalty on whoever gives any information derived from a recount of votes related to a ballot cast by a challenged voter, except as required by law, is a fine of not more than \$500.00 or imprisonment for not more than 1 year. [56:56]

k. ballots not counted

The challenged ballots not recounted should be kept separate from other challenged ballots. Place them in a block envelope marked CHALLENGED BALLOTS - REJECTED and enter the number of ballots on the outside. The number of ballots entered on the envelope of the block from which the rejected challenged ballot was taken should be amended to show the actual number of ballots remaining in the block. Enter next to the amended number "[#] challenged ballots rejected."

Escrow ballots not counted should be returned to the escrow ballot envelope in which they were sealed on election night. The number of ballots entered on the outside of the envelope should be amended if some of the escrow ballots were counted and a note "[#] escrow ballots counted" should be entered next to the amended number.

1. record of hearing

A record of the hearing should be included in the record of the recount. The following should be included in the hearing record:

- time and place of hearing
- notices given and summonses issued
- the names of those present at the hearing
- the name of each challenged and escrow voter and if not present at the hearing, a notation to that effect
- for each ballot, the documents presented and a summary of the testimony given or information brought out by examination and cross-examination by counsel
- the registrars' determination with respect to each ballot including the reasons for each ballot rejected
- if the registrars' determination was protested, a notation to that effect including the name of the voter appearing on the protested ballot
- the time the hearing adjourned.

If forms are used to record the registrars' determination, they may be incorporated by reference and attached to the record.

6. Rejected Absentee Ballots

The registrars shall examine the sealed inner ballot envelopes containing absentee ballots rejected as defective as to the reasons for rejections and shall determine whether each ballot should have been rejected or accepted. [54:135A] Note that the examination does not include those ballots rejected as voted in person.

a. material needed

Each absentee ballot rejected as defective together with the related application must be available at the recount. It is suggested that you also have available your notes showing the reasons you rejected a ballot and any investigation you may have made so that you can answer questions the registrars or counsel may have. Other records, such as a copy of the voter's affidavit of registration showing his signature may be helpful, particularly if the reason for rejection was your belief that the ballot envelope was signed by someone other than the voter.

It may be helpful to have a copy of the notice sent to each voter whose absentee ballot was rejected available at the recount or attached to the ballot envelope.

b. examination of inner ballot envelope/application

Each registrar should examine the inner envelope and the application using the procedures outlined in ABSENTEE BALLOTS, VIII. PROCESSING ABSENTEE BALLOTS in Volume 3 of this series.

The board should take a formal vote on whether or not each absentee ballot should be rejected or accepted. Inner ballot envelopes should not be opened at this time even if the registrars determine that the ballot should have been accepted.

Counsel present should be permitted to examine each ballot envelope and the related application. The registrars' determination may be protested at the time each envelope is examined.

c. information to be entered on ballot envelope

After the examination, the registrars must enter on the back of each inner ballot envelope the reasons the ballot should be rejected or accepted and a majority of the board must sign. The information and signatures may be entered directly on the envelope or a form may be glued or taped to the back of the envelope. (see sample form on page 361)

If the registrars' determination is protested, enter the word PROTESTED on the back of the envelope or check the appropriate space on the form, if used.

d. place absentee ballots/applications in envelope

The inner ballot envelope should be placed inside the return envelope. The related application should be

attached to the return envelope, if it was separated. The absentee ballots and their related applications should then be placed in the manila envelope in which they were sealed on election night, if one was used. Otherwise, they should be kept together with an elastic.

If, however, the registrars' determination was protested, the absentee ballot in its return envelope and the related application should be placed in the protested ballot envelope.

e. record of examination

A record of the examination and the registrars' determination should be made. Include the name and voting address of absentee voter, the registrars' decision on each and the reasons. If a decision were protested, this fact should also be recorded. A form may be used for this purpose. (see sample form on page 360)

7. Envelopes and Applications Related to Counted Absentee Ballots

Candidates or ballot question designees and/or their counsel should be permitted to examine the inner and return absentee ballot envelopes for cast absentee ballots and their related applications. They may write down any information they find on the envelopes and applications.

However, the registrars do not make any determination at the recount as to whether or not an application was valid or an absentee ballot should have been counted.

8. Spoiled and Unused Ballots [54:135]

In paper ballot and punch card towns, the number of spoiled and unused ballots must be counted. While not specifically required by 54:135A, if there are any spoiled or unused ballots in voting machine towns, the number should be counted. If the town voted by precincts, a separate count should be made for each precinct.

Before opening the spoiled ballot envelope or the unused ballot container, examine the seal to see that it is intact and permit candidates, etc., counsel or agents to examine it. In punch card towns, if unused ballots were placed in the metal carrying case on election night, it will have already been opened to remove the cast punch card ballots.

After counting the number of ballots, return them to the container from which they were removed. Record the number of each type of ballot. A form may be used for this purpose or

the information may be included in the registrars' statement on the total vote sheet. (see 1. 1. Registrars' Statement on page 399)

9. Other Material to be Examined

Upon request, a candidate, ballot question designee or committee representative, counsel or agent should be permitted to examine the following items during a recount.

a. voting list

An examination of the voting list would include an examination of the supplementary list and the list of non-registered specially qualified voters, if any, and the certificates issued on election day.

Before opening the sealed voting list envelope, examine the seal to see that it is intact and permit candidates, etc., counsel or agents to examine it. They may also examine any notes or certificates entered on the outside of the envelope when it was opened and resealed before the recount. Then open the envelope and remove the lists and certificates.

If requested, the number of names marked on the voting list should be recounted by clerks assigned by the registrars. If so, a record of the number of names counted should be made. The record may be entered on the outside of the envelope. However, also enter the word RECOUNT and the date of the recount next to the number of names.

Note: An examination and recount of the voting list is usually not requested unless there is a discrepancy between the number of names checked and the number of ballots cast.

b. election record

Upon request, an examination of the records of the election, including the precinct or election clerk's record and original tally sheets should be permitted.

c. ballot box

An examination of the figures on each ballot box register used at the election should be permitted. A request for such an examination is usually not made at a recount unless there is a discrepancy between the ballot box register and the number of ballots cast which cannot be easily explained.

If ballot boxes are located at several different locations, suggest that the examination be made before or after the recount of ballots. Or, that the candidate appoint enough agents so that the ballot boxes may be examined in several locations at the same time.

Note that the General Laws do not provide for an examination of the inside of the ballot box during a recount. However, the envelope in which the ballot box keys were sealed on election night may be examined upon request.

d. voting machine towns

In voting machine towns using printomatic machines, the proof sheets removed from the machines before the polls opened may also be examined.

e. late absentee ballots

Absentee ballots received too late to be counted may be examined. Sometimes candidates or their counsel want to examine the postmark and the time stamp or receipt entered on the return envelopes. The return envelopes should not be opened under any circumstances.

10. Announce Results

While not specifically required by the General Laws, in most towns, the results of the recount are publicly announced after the total vote sheet has been completed and balanced. This announcement is made the same as on election night except that only the votes for the office or question recounted are announced. If the town voted by precinct, the totals from each precinct total vote sheet and the totals from the town total vote sheet are usually announced.

In some towns, the original count, as shown on the original total vote sheet(s) for the office or question recounted, is also announced.

H. COMPLETING THE RECOUNT [54:135,135A]

1. Return All Official Election Material to Proper Containers

After all ballots have been recounted, including any challenged and escrow ballots the registrars have voted to count and the total vote sheet and necessary examinations have been completed, all official election material, except protested ballots, should be returned to the envelopes or boxes in which they were originally enclosed.

If a protested paper ballot was removed from a block, correct the number of ballots appearing on the outside of the block envelope. Cross out the original number and enter the new number next to it. Enter [#] PROTESTED BALLOTS REMOVED - RECOUNT [date] next to the new number. Make a similar correction if a challenged ballot was rejected and not recounted.

In punch card towns, if there were protested punch card ballots, enter a note on the metal carrying case label such as, "[#] protested ballots removed - recount [date]." If gray write-in envelopes were protested, enter on the manila envelope in which they were originally sealed "[#] envelopes protested - recount [date]." Make similar notes on the manila envelope containing over-voted and damaged cards and on the manila envelope containing challenged ballots and/or related gray envelopes, as appropriate.

All ballots, including write-in paper from voting machines and gray write-in envelopes for punch cards, on which votes were protested should be placed in the protested ballot envelope. The envelope should be clearly labelled with the word RECOUNT, the type and date of the election, the date of the recount and the contents of the envelope. (see E. 2. d. envelopes on page 361)

In voting machine towns, write-in paper containing protested votes may not fit in an envelope. In this case, it may be sealed in a fibreboard box, together with protested paper ballots and rejected absentee ballots which were protested. Attach a label to the box identifying the contents. On the box in which the write-in paper was originally sealed, enter on the label "[machine #] write-in paper protested - recount [date]."

SAMPLE LABEL

RECOUNT [date]
[office/question recounted]
[type of election, date]

This is to certify that this box contains
all ballots protested at the recount held
on the above date.

Registrars of Voters of [town]

The protested ballots should not be placed in a fibreboard box or in a metal carrying case along with other recounted ballots or with other official election material. If the recount is taken to court, only the protested ballots are required to be produced unless the court specifically orders that other material be produced as well.

Note: The General Laws do not require that the original total vote sheets or block tally sheets be replaced in an envelope nor do they require that the recount tally sheets be placed in an envelope. The block tally sheets may be sealed in the block envelopes with the recounted ballots and the original block envelope.

2. Certify and Seal All Containers

The registrars must certify upon each envelope or container that it has been opened and again sealed in conformity to law.

Seals to be used following a recount are commercially available. (see sample on page 439) These seals contain the statement required by 54:135. The name of the town, the date of the recount and the signatures of at least a majority of the board of registrars should be entered. Add the precinct number, if any.

At least one seal should be placed on each envelope including the block envelopes containing recounted ballots, over each strap on a fibreboard box and in punch card towns, on the metal carrying case.

Note: The protested ballot envelope or container must also be sealed. A commercially available recount seal may be used. Cross out the words in the statement which do not apply so that the statement reads as follows:

This envelope has been sealed by the
Board of Registrars according to law.

The name of the town, the date of the recount and the signatures of at least a majority of the registrars should be entered. Also enter PROTESTED BALLOTS on the seal where there is space, above the registrars' signatures or under the date, for example.

3. Return Material to Vault, Safe or Files

All official election material should be returned to the town clerk who should place it in the location from which it was transmitted to the registrars immediately before the recount. (see ELECTION DAY, XXI. TOWN CLERK TO RECEIVE ELECTION

MATERIAL on page 237) The protested ballots should be placed in the vault or office safe.

The total vote sheets will be needed in the office so that the permanent recount record can be prepared.

I. AFTER THE RECOUNT [54:135,135A]

1. Registrars' Statement

The registrars must make and sign a statement of their determination of the questions raised.

The statement with respect to the number of votes cast for each candidate under the recounted office, or for each answer under a recounted question, can be typed directly on the recount total vote sheets and signed by the registrars. The statement may include the number of unused and spoiled ballots counted. If the number of names marked on the voting list was recounted, that may also be included.

SAMPLE STATEMENT - NUMBER OF VOTES CAST

This is to certify that the number of votes cast for each candidate and the number of blanks cast for [office title] [or the number of affirmative and negative votes and blanks cast for question #] determined by the recount held on [date] is as shown above on this total vote sheet for precinct [#].

The number of unused ballots was _____,
the number of spoiled ballots was _____,
and the number of names marked on the voting list was _____ all as determined by the recount held on [date].

Registrars of Voters of [town]

In towns voting by precincts, this statement should be entered on each precinct total vote sheet. A similar statement should be entered on the town total vote sheet, except that only the first paragraph shown above would be needed.

This statement together with the record of the hearing on challenged and escrow ballots, the record of the registrars' votes on protested ballots, on absentee ballots rejected as defective and the record of any other registrars' votes will constitute the statement required by 54:135.

Since a recount may be appealed to the court, it is essential that all registrars' decisions made during a recount be carefully recorded. In some towns, the proceedings of a recount are formally recorded the same as formal minutes of a regular meeting of the board. The record of a recount should be kept permanently. [State Retention Schedule #2.25]

2. Town Clerk to Amend Election Record

The election record should be amended in accordance with the registrars' determination made at the recount of the votes cast for the candidates or questions.

In most towns, the original permanent election record is not changed but a permanent recount record is made instead. The recount record is typed on minute book paper and immediately follows the election record. (see sample recount record on page 440) The two taken together constitute the permanent record for that election. A reference to the recount record should be made in the original permanent election record.

3. Registrars' Certificate of Vote

a. registrars to make and sign certificate

If, in the case of a recount of votes for town officers, it shall appear that a person was elected other than the person declared to have been elected, the registrars of voters shall forthwith make and sign a certificate of such fact. The certificate must include the number of votes cast, as determined by the recount, for each candidate for the office which is disputed.

SAMPLE CERTIFICATE

This is to certify that the number of votes cast for each candidate for the office of [title] as determined by the recount held on [date] is as follows:

candidate name	# votes
candidate name	# votes
candidate name	# votes
...	

This is to further certify that [candidate's name] was determined to be elected to the office of [title].

Registrars of Voters of [town]

A similar certificate should be issued following a recount of the town primary or preliminary if the recount showed that a person was nominated other than the person previously declared nominated. The term "nominated" should be used instead of "elected" in the last sentence of the certificate. Also, a certificate should be issued following a presidential primary recount of the office of town committee. In that case, the term "elected" should be used.

b. file certificate with town clerk

The certificate must be filed with the town clerk who must record it. Usually, since the town clerk is the clerk to the board of registrars, he will prepare it for the registrars' signatures. After the registrars sign the certificate, time stamp it or note the time and date of receipt and add your signature.

54:135 does not require that the certificate be recorded in a special book. It may be placed in the files with other election records or included in the election record book or in the registrars' permanent record book.

c. copy of certificate delivered to candidates

Within 24 hours after the certificate is filed, the town clerk must certify two copies. A certified copy of

the certificate must be delivered to or left at the residence of the person previously declared to be elected or nominated and of the person who appears to be elected or nominated according to the votes entered on the certificate.

d. penalty [56:19]

The penalty for wilfully signing or issuing a certificate not in accordance with the results as appearing by a recount of votes is imprisonment for not more than one year.

4. Copy of Amended Record to State Secretary and Others

For state primary or election recounts or presidential primary recounts, except for the office of town committee, a copy of the amended record of the votes cast must be made and transmitted to the state secretary and others to whom the copy of the original record was sent. (see VI. ELECTION RETURNS TO BE TRANSMITTED on page 300)

The copy of the recount record may be sent in a letter since there is no prescribed form.

If a state-wide recount was held, the copy of the amended record must be transmitted within 4 days after the recount was completed. The General Laws do not specify a time limit within which copies of amended records must be transmitted in other cases. However, they should be sent as soon as possible after the recount.

J. DISCONTINUING A RECOUNT [54:135]

Under certain circumstances after filing a recount petition, a recount may be discontinued.

1. Recount Petition Filed with Town Clerk

a. candidate's written request

If the recount petition was filed with the town clerk, the candidate who filed it must file a written request that the recount be discontinued. Upon receipt of such a request, the town clerk must suspend the recount.

Note: The General Laws do not specifically provide for the discontinuance of a recount of a ballot question. However, it may be discontinued by a ballot question designee using the same procedures as a candidate.

b. notice to other candidates (see sample notice on page 441)

The town clerk must immediately give written notice to each candidate for the office named in the petition. The notice should contain a statement that a written request for discontinuance has been received and that the recount will be discontinued unless written notice of a candidate's objection is received within 72 hours after the town clerk's notice was sent.

If possible the notice to candidates should be hand delivered and include the date and hour of delivery since the time the notice was sent starts the 72 hour period within which a candidate's written objection may be received. It is suggested that a signed receipt be obtained at the time of delivery to provide a record that the candidate received the notice.

Note: If a recount of a ballot question is being discontinued, the notice should be sent to representatives of committees organized on the other side of the question to the extent that they can be identified.

If the notice must be mailed, it is suggested that you also try to telephone each person to whom it was mailed since the period within which objections can be filed is very short.

c. no objections received

If no written objections are received within the specified time limit, the recount is then discontinued.

d. objection received

If, however, a written objection is received within the time limit, the recount must be held as scheduled. It is suggested that candidates, or ballot question designees and committee representatives, be informed immediately that the recount will be held even though this is not required by the General Laws.

2. Recount Petition Filed with State Secretary

a. candidate's written request

If a state-wide or district-wide recount petition has been filed with the state secretary, the leading candidate and every other candidate whose number of votes does not differ from his by more than one half of one percent of the

votes cast for the office, must all file with the state secretary a written request to discontinue the recount.

b. state secretary to order recount discontinued

If the condition under a. above has been met, the state secretary will order the recount discontinued. He will transmit a notice of discontinuance to each town clerk's office. The registrars must then discontinue the recount.

The registrars are not required to notify anyone of the discontinuance. However, if town counsel has made arrangements to attend the recount, he should be notified.

XII. RETAINING ELECTION MATERIAL

The retention period for official election material is prescribed by the General Laws, by the State Retention Schedule, and for primaries and elections in which federal offices appear on the ballot, by federal statute.

A. RETAIN MATERIAL IN SEALED ENVELOPES OR CONTAINERS

The General Laws do not specifically state how long official election material should remain sealed. However, should a recount, objection to a nomination, claim to office or declaration of intent to contest be filed, or the election results be taken to court, it is essential that all official election material be available. If items were misplaced, lost, stolen, or tampered with, the consequences could be very serious and might result in invalidating the election.

All official election material sealed on election day, except tally and total vote sheets, should remain sealed for 30 days after each primary or election. Of course, if a recount petition or objection to a nomination is filed, material must be unsealed and then resealed after the necessary procedures have been completed. Also, a checked voting list must be unsealed for amendment, examination, or copying and then resealed.

B. STATE RETENTION PERIODS

The retention period for some items is specifically stated in the General Laws. However, the retention requirements for many items is stated generally as "in the manner provided by law for the retention, preservation or destruction of official ballots."

54:109 provides that the town clerks shall retain in their custody the envelopes or containers containing the ballots cast, without examining them or permitting them to be examined by any person except as required by law, and upon the expiration of the period fixed for their preservation shall cause such ballots to be destroyed. However, you will not find any other section of the General Laws which specifically tells you how many days the official ballots must be retained. Instead, the retention period is based upon 54:134, which permits a primary or election to be contested within 30 days after the event and if a claim to office or intention to contest is filed, upon how long it takes to finally determine the primary or election results.

Exception: 54:135 specifies that if a state-wide recount is petitioned for, all ballots cast at a state election shall be held, except as otherwise provided herein, by the city and town clerk until the expiration of 60 days after said election. The phrase "except as otherwise provided herein" refers to transmitting election material to the registrars so that a recount may be held.

In many towns, most election material, except those items required to be destroyed, is retained for reference longer than the minimum specified retention periods. For example, the checked voting list and certificates, the list of absentee ballot applicants, etc. are retained for at least 4 years to provide a registration and party enrollment record for the subsequent state and presidential elections and state primaries. In some towns, such material is kept longer or microfilmed.

1. Items to be Retained for 30 Days

Unless a different retention period is specifically stated in a section of the General Laws or in the State Retention Schedule as noted for each item listed under 2. below, the retention period is 30 days following the election.

Note that if a claim to office or a declaration of intention to contest an election, or if primary, election or recount results are taken to court, the retention period is extended until after the final decision has been made.

The following items for which there is a general law or state retention schedule reference, must be retained for the 30 day period. Each state retention schedule [S.R.S.] number shown in this list is starred on the schedule indicating that permission from the State Supervisor of Public Records is not required prior to disposal. Some items, as noted below, must be destroyed after the retention period has expired.

- ballots cast, including in person, absentee and challenged [54:109] [S.R.S. #2.24] [60 days for state election ballots if state-wide recount petition filed] Must

be destroyed after retention period has expired without being examined, except as required by law such as, during a recount, etc. or court proceeding.

- spoiled ballots [54:109] Must be destroyed the same as cast ballots.
- unused ballots [54:109] After the retention period has expired, the town clerk may make such disposition as he deems proper.
- return and inner absentee ballot envelopes for cast ballots [54:95] [S.R.S. #2.23] Must be destroyed the same as cast ballots.
- absentee ballots rejected as defective [54:95] Must be destroyed the same as cast ballots.
- absentee ballots rejected as voted in person [54:100] Must be destroyed the same as cast ballots.
- absentee ballot applications, including rejected applications [54:94] [S.R.S. #2.23] Must be destroyed the same as cast ballots.
- absentee ballot disposition sheets and list of applicants [54:94]
- absentee ballots received late [54:99] Must be destroyed the same as cast ballots.
- envelopes used when voting at the registrars' office under a certificate [51:59] Must be destroyed the same as cast ballots.
- escrow ballots [51:59A] Must be destroyed the same as cast ballots.
- tally sheets including total vote sheets [S.R.S.#2.44]
- recount petitions [54:135] [S.R.S. #2.37]

The penalty for examining or permitting to be examined, except as required by law, the ballots cast at a primary or election, received and retained by the town clerk under 54:109 is a fine of not more than \$200.00. [56:17]

Items not included in the list above or under 2. below should also be retained for the 30 day period. Note that permission for disposal must be obtained from the State Supervisor of Public Records for items included but not starred and for any items not included in the state retention schedule.

2. Items to be Retained More than 30 Days

The following items must be retained for at least 2 years after the primary or election. The State Retention Schedule numbers shown are starred in the schedule and no permission is required prior to disposal.

- checked voting list [54:109] [S.R.S. #2.41]
- list of non-registered specially qualified voters [54:94]
- certificates issued under 51:59 [S.R.S. #2.43]
- certificates of supplementary registration [51:51] [S.R.S. #2.40]

Note: The items listed above, must be retained by the town clerk for 30 days after the election. Then they must be transmitted to the registrars of voters to be retained for the remainder of the 2 year period. If the town clerk and the registrars have the same office, the usual practice is to keep the voting list sealed and in the office safe for 30 days. Then it is unsealed and placed in a file.

The receipt for ballots and other election material, signed by the warden and ballot clerks at the polls on election morning, must be kept for one year. [54:60] Permission is required prior to disposal.

Claims to office [S.R.S. #2.27] and declarations of intention to contest an election [54:134] [S.R.S. #2.28] must be retained until the claim is withdrawn or until after the final adjudication of the contest. They may then be disposed of without permission.

Party enrollment certificates (party change cards) must be kept for two years following the removal of the voter's name from the voting list. [53:38] [S.R.S. #2.34] Permission is required prior to disposal.

Registrars' records of recounts, objections to nominations, challenged and escrow ballot hearings must be kept permanently. [S.R.S. #2.25]

While not specifically required by the General Laws or the state retention schedule, it is suggested that the election or precinct clerk's record be kept permanently.

C. FEDERAL RETENTION PERIOD [42 U.S.C. s. 1974]

Following a state primary or election or a presidential primary, official election material must be retained for 22 months under the federal requirements. This requirement does not apply to any material related to a town primary, preliminary or election.

The material to be retained includes all ballots, absentee ballot envelopes and other absentee voting records, block tally and total vote sheets, voting lists and election clerk's records. In towns having voting machines, the proof sheets and counted pack sheets, voter authority certificates, certificates of voting machine failure and other certificates must also be retained.

Since the fibreboard boxes, metal carrying cases, etc. must usually be reused for other elections during this time, the material may be removed from the boxes after the state retention period has expired and placed in cardboard cartons for storage.

It is suggested that each carton be clearly marked with the type of election, date of election, and date on which the material may be destroyed. Also, it is suggested that you sign and attach a label on which the contents have been entered and that the box be sealed with tape or a regular election seal. The cartons should be kept in the vault, if possible, or in a secure room since they may have to be produced if a federal office is contested.

In most towns, items such as the checked voting list, total vote sheets and list of applicants for absentee ballots, etc. are safely kept in office files instead of in the vault since they will be needed for reference during the 22 month period.

D. VOTING MACHINES [54:135A]

Voting machines must remain sealed for a specified period following each primary, preliminary and election as outlined below.

1. Primaries and Preliminaries

All voting machines used in a town primary or preliminary election must remain locked and sealed for the period of 10 days next succeeding the date of the primary or preliminary. For example, if a primary is held on March 25th, the machines may be unsealed on April 5th, the 11th day after the primary.

Note: The period during which voting machines must remain sealed following a state or presidential primary is not stated in the General Laws. If the machines must be released for preparation for a succeeding election sooner than 30 days following a state or presidential primary, the town clerk may issue a certificate of necessity. (see 3. b. recounts on page 409)

If you wish to release the machines before the 30 days have expired without issuing a certificate of necessity, it is suggested that a formal opinion of town counsel supporting your action be obtained and filed and in that case, the machines should not be released prior to 10 days following the primary, the period specified in 54:135 for town primaries.

2. Elections

All voting machines used in a town or state election, must remain locked and sealed for the period of 30 days next succeeding the date of the election. For example, if an election is held on March 25th, the machines may be unsealed on April 25th, the 31st day after the election.

3. Machines Available for Next Election

a. sealed period expired

Voting machines may be unsealed and made available for preparation for the succeeding election or primary at any time after the period specified in 1. and 2. above has expired.

b. recounts

The voting machines are not unsealed during a recount. However, they may be unsealed and made available for preparation immediately following the completion of a recount even if periods specified in 1. and 2. above have not yet expired.

- recount by petition or by claim to office

A recount of the votes cast on the machines for a particular office or question is made under a recount petition or under a claim/declaration of intention to contest an election. (see XI. RECOUNTS on page 339 and IX. CONTESTED ELECTIONS, C. VOTING MACHINE TOWNS on page 331) The machines may be unsealed even if the recount is subsequently taken to court since the record made at the recount shall be received as evidence as fully and with as full force and effect as if proved by the oral testimony of the persons who signed it, or by the production of the voting machines in a court.

Note: If voting machines are examined under 54:135A before the deadline for filing recount petitions has expired, they should not be released until after the recount deadline has expired or if a second recount petition is filed, until after the second recount has been completed. (see XI. RECOUNTS, B. 1. a. note on page 348)

- recount by town clerk's certificate of necessity

A recount of the votes cast on the machines for all offices and questions may be made upon certification by the town clerk to the registrars of the necessity of releasing the machines for an ensuing primary, preliminary or election. In this case, the procedures to be used are the same as those outlined under IX. CONTESTED ELECTIONS on page 328, except as follows:

- all offices and questions are recounted and notices must be sent to all candidates and when applicable to ballot question designees and committee representatives. (see XI. RECOUNTS, C. NOTICES REQUIRED, 1., 2., and 3. on pages 350 and 351) Only the machine votes are recounted since absentee and challenged ballots are preserved for the 30 day retention period and would be available if a recount petition were subsequently received or an election were taken to court.
- the town clerk's certificate of necessity may be given to the registrars immediately following the primary or election.
- the machine total vote sheet must include all offices and questions appearing on the ballot. Enter RECOUNT - TOWN CLERK'S CERTIFICATE at the top of the total vote sheet.
- the registrars' certificate would not include the reference to 54:134.

A recount by town clerk's certificate is usually held during presidential election years when the presidential primary must be held shortly before or after the annual town election. However, this procedure may be used at other times if the town clerk considers it necessary.

SAMPLE CERTIFICATE OF NECESSITY

(Town Clerk's Letterhead)

Date _____

TO: Board of Registrars
Town of [name]

This is to certify that the voting machines used at the election [primary] held on [date] must be released prior to the expiration of the period during which they are required to be sealed specified in Ch. 54, s.135A, G.L. to permit them to be prepared for the election [primary] to be held on [date].

Signature _____
Town Clerk

c. special provisions - presidential primaries

In a town where the annual town election is held on the first Monday in March or during the month of February in the year when the presidential primary is held, the registrars of voters shall inspect and make a record of the figures on the voting machines and ballot boxes immediately after the polls close. The machines and ballot boxes shall be used in the presidential primary.

In effect, the voting machines are recounted by the registrars on election night and separate total vote sheets should be prepared and used. The machine write-in paper does not need to be inspected. Note that the registrars must also record the figures on the ballot box registers.

E. **BALLOT BOXES**

Ballot boxes should remain locked for the same 30 day period as is required for the retention of official election material.

F. **DISPOSAL OF ELECTION MATERIAL**

Prior to disposing of any official election material, you must be certain that the required retention period has expired and unless the item appears starred on the state retention schedule,

that permission has been obtained from the state supervisor of public records.

The General Laws do not specify the method for disposal of election material. However, they do specify that some items, such as used ballots, absentee ballot envelopes, etc. as noted in the list under B. 1. on page 405 must be destroyed without being examined. Particular care should be taken in disposing of these items to prevent their falling into the hands of a person who may be tempted to examine an item, such as the rejected absentee ballots, to determine how a person voted or of a person who is not aware of the General Law requirements and who may examine the material out of curiosity. The items required to be destroyed without being examined should not simply be placed in an office waste basket and left for the building custodian to throw out.

In some towns, material to be destroyed is packed and sealed in a cardboard carton and given to the person in charge of the sanitary land fill for burial. In other towns, special permission is obtained from the fire chief to burn the material. If a paper shredder is available, the material may be shredded prior to being thrown in a wastebasket. The material may be taken home and burned in your fireplace. If no other method is available, the material may be torn into small pieces, stirred up to prevent the pieces of any ballots from being put back together, placed in a plastic bag and thrown into a waste basket or dumpster.

Other items may be disposed of using any convenient method including simply throwing them in an office waste basket.

SAMPLE NOTICE TO ESCROW VOTERS

(Registrars' Letterhead)

Date _____

Escrow voter's name
Address

This is to notify you that at [time] on [date] in their office at the Town Hall, the Board of Registrars will meet to open the envelope containing ballots marked by escrow voters at the election [primary] held on [date]. The registrars will examine each ballot and determine whether or not the ballot should be counted.

You are entitled to attend the meeting and present written and verbal evidence to substantiate your right to vote in the election [primary]. It is suggested that you bring with you whatever written evidence you may have to prove that you were a registered voter of this town at sometime in the past, that you have maintained continuous residence since that time and that you are currently a resident [to prove identity, if applicable].

You are entitled to be represented by legal counsel if you wish and may bring a witness with you who can substantiate your residence [and identity, if applicable].

At the meeting, you and your witness will be required to take an oath prior to presenting any evidence and may be examined or cross-examined by legal counsel or by candidates for the office which may be affected by the escrow ballots.

If you have any questions, please call the office at [telephone number].

Board of Registrars

By _____
Clerk

Note: A notice similar to that shown above may also be used to notify candidates for the affected office. A candidate or his counsel may bring evidence related to whether or not an escrow ballot should be counted and witnesses to substantiate that evidence. A similar notice may also be used to notify challenged or escrow voters of a hearing on their ballots held during a recount.

SAMPLE RECEIPT FOR HAND DELIVERED NOTICE

Date _____
Time _____

Received on the date and at the time above, notice of recount for the office of [title] to be held at [time] on [date] at the Town Hall.

signature
(candidate or member of household)

Note: A similar receipt may be used for hand delivered notices to escrow and challenged voters. Substitute "meeting" or "hearing" for the word "recount."

.....

SAMPLE NOTICE TO STATE SECRETARY - STATE PRIMARY AND ELECTION RECOUNTS

(Registrars' Letterhead)

Date _____

Office of Secretary of State
Elections Division
One Ashburton Place, Room 1705
Boston, MA 02108

This is to notify you that a recount of the ballots cast at the state election [primary] of [date] for the office of [title] [question #] will be held at [hour] on [date] at the Town Hall.

Each candidate for the office [designee for ballot question] will be entitled to [#] of observers at the recount.

Board of Registrars

By _____
Clerk

The Commonwealth of Massachusetts

.....ss.

To

.....greeting.

You are hereby commanded, in the name of The Commonwealth of Massachusetts, to appear
before the.....Court.....

holden at.....within and for the county of.....

on the.....day of.....at

.....o'clock in the.....noon, and from day to day thereafter, until the action

hereinafter named is heard by said Court, to give evidence of what you know relating to an action
of.....then and there to be heard and tried between.....

.....Plaintiff , and

.....Defendant , and

you are further required to bring with you.....

Hereof fail not. as you will answer your default under the pains and penalties in the law
in that behalf made and provided.

Dated atthe.....day of.....

A. D. 19

.....
Notary Public — Justice of the Peace

RETURN OF SERVICE

I this day summoned the within named

to appear and give evidence at Court as within directed by delivering to

in hand,—leaving at last and usual place of

abode, to wit: No. Street,

in the District of said an attested

copy of the subpoena together with fees for attendance and travel

Service and Travel

Police Officer, Constable, Deputy Sheriff

Cop.

Pd. Witness

It being necessary I actually used a motor

Motor Vehicle

vehicle the distance of miles in the

service of this process

Police Officer, Constable, Deputy Sheriff

Subscribed and sworn to before me

This day of

19

Notary Public

My commission expires 19

SAMPLE

CERTIFICATE OF ELECTION

(CARD FORM)

SIGNATURE OF OFFICER	_____ OF _____
	COMMONWEALTH OF MASSACHUSETTS
	<i>This is to certify that</i>

	HAS BEEN DULY ELECTED

	FOR THE TERM ENDING _____
	AND HAS MADE OATH THAT HE WOULD FAITHFULLY DISCHARGE THE DUTIES OF SAID OFFICE AS REQUIRED BY LAW.

	TOWN CLERK

SAMPLE PERMANENT ELECTION RECORDS
(Minute Book Paper)

ANNUAL TOWN ELECTION
MARCH 25, 1985

The annual town election of the town of Midtown was held at the Center School on March 25, 1985 in accordance with the warrant issued by the Selectmen and properly posted by a constable of the town.

Specimen ballots, penalty and instruction cards were posted in accordance with law. The ballot box was inspected by the election officers, found to be empty and the register at zero. All 20 voting machines available at the polling place were examined by the election officers, found to be in order with all seals intact. All election officers were sworn to the faithful performance of their duties.

The polls were declared open at 7:00 A.M. and closed at 8:00 P.M. in accordance with the warrant. There were 2,366 ballots cast, including 60 absentee ballots. The results were announced at 10:15 P.M. by Town Clerk, Alice P. White.

MODERATOR: For One Year

John L. Smith	2,256
Scattering	1
Blanks	109

SELECTMAN: For Three Years
(Vote for Two)

Frank R. Jones	1,642
William T. Adams	1,404
Alice Baker	1,514
Scattering	2
Blanks	170

[Continue until all offices and ballot questions, if any, have been included] In towns without precincts, two columns may be used. In towns voting by precincts, results for each precinct must be included. (see sample amendment to permanent election record on page 440 for format)

All ballots were counted and all official election material was properly enclosed in containers and sealed in public and then returned to the Town Clerk.

A true record, Attest:

Signature
Town Clerk

TOWN OFFICERS ELECTED

In accordance with the requirements of the General Laws, I certify that the following persons were elected to town officers at the annual town election held on

Town Clerk

TERM EXPIRES

419

NAMES OF SELECTMEN AND CLERKS

Town of _____

BOARD OF SELECTMEN

TERM EXPIRES

Chairperson: _____

TOWN CLERK _____

TOWN CLERK'S BUSINESS PHONE _____

TOWN CLERK'S HOME PHONE _____

If Town Clerk is elected in 1985, name of individual elected:

_____, Term Expires _____, Home Phone _____

Signed by _____
Town Clerk

Please return to the Secretary of State, Elections Division, Room 1705, One
Ashburton Place, Boston, MA 02108.

SAMPLE ENVELOPES

CONTAINS STATE ELECTION RETURN FORMS SENT BY STATE SECRETARY

MANILA - 5" X 11"

Secretary of the Commonwealth
Elections Division Rm. 1705
One Ashburton Place
Boston, MA 02108

FIRST CLASS

RETURN OF VOTES
Examine as soon as received.

E 90-43-2M

FOR SENDING COMPLETED RETURN FORMS TO STATE SECRETARY

MANILA - 4½" X 10"

Secretary of the Commonwealth
Elections Division Rm. 1705
One Ashburton Place
Boston, MA 02108

ELECTION RETURNS
Please expedite.

E 88-80-2M

SAMPLE FORM - RETURN OF VOTES TO STATE SECRETARY

THE COMMONWEALTH OF MASSACHUSETTS
MICHAEL J. CONNOLLY, SECRETARY OF STATE
ELECTIONS DIVISION

RETURN OF VOTES - [TYPE OF PRIMARY OR ELECTION] [DATE]

[NAME OF TOWN]

TOTAL NUMBER OF PERSONS WHO VOTED IN
THE [PRIMARY/ELECTION] _____

***** ATTENTION CLERK: SIGN AND RETURN AT ONCE *****

I CERTIFY THAT ALL BALLOTS CAST FOR CANDIDATES
IN THE [PRIMARY/ELECTION] HELD ON [DATE]
HAVE BEEN COUNTED AND RECORDED IN ACCORDANCE WITH THE LAW,
AND THAT THE FOLLOWING RETURN OF VOTES IS CORRECT.

CLERK: _____

***** METHOD OF RECORDING VOTES *****

RECORD THE NUMBER OF VOTES FOR EACH LISTED CANDIDATE AND FOR EACH WRITE-IN
OR STICKER CANDIDATE. THE SPACE BETWEEN THE LAST CANDIDATE'S NAME AND THE
DESIGNATION "ALL OTHERS" IS TO BE USED TO RECORD THE NAMES, ADDRESSES (IF
KNOWN) AND VOTES OF ANY WRITE-INS. ALSO, RECORD THE NUMBER OF BLANKS, THE
TOTAL VOTE FOR EACH OFFICE IS THE SUM OF VOTES FOR LISTED CANDIDATES,
WRITE-INS, AND BLANKS. THE TOTAL VOTE SHOULD BE EQUAL TO THE NUMBER OF
PEOPLE WHO VOTED IN THE [PRIMARY/ELECTION].

***** IMPORTANT: DO NOT SEPARATE SHEETS! *****

02-86-26

OFFICE OF THE SECRETARY OF STATE

OFFICE NAME: [TITLE]
 DISTRICT NAME: [STATE WIDE OFFICE OR DISTRICT # AND NAME]
 TOWN NAME: [NAME]

PARTY: [IF A PRIMARY]

01	CANDIDATES [LIST OF CANDIDATES WHOSE NAMES APPEAR ON THE BALLOT]	VOTES [ENTER NUMBER OF VOTES]
----	---	-------------------------------------

[ENTER NAMES AND
 ADDRESSES, IF KNOWN,
 OF WRITE-IN CANDID-
 ATES]

ALL OTHERS [SCATTERING]	_____
BLANKS	_____
TOTAL VOTES CAST	_____

OFFICE: [TITLE]
 DISTRICT NAME: [STATE WIDE OFFICE OR DISTRICT # AND NAME]
 TOWN NAME: [NAME]

PARTY: [IF A PRIMARY]

#	CANDIDATES [LIST OF CANDIDATES WHOSE NAMES APPEAR ON THE BALLOT]	VOTES [ENTER NUMBER OF VOTES]
---	---	-------------------------------------

[ENTER NAMES AND
 ADDRESSES, IF KNOWN,
 OF WRITE-IN CANDID-
 ATES]

ALL OTHERS [SCATTERING]	_____
BLANKS	_____
TOTAL VOTES CAST	_____

SAMPLE FORM

FOR ELECTION RETURNS TO COUNTY COMMISSIONERS - COUNTY TREASURER

Commonwealth of Massachusetts.

MIDDLESEX, SS.

At a legal meeting of the inhabitants of the town of in the
County of Middlesex, qualified as by the Constitution required, to vote for Civil Officers, holden on the
Tuesday next after the first Monday of November, being the day of said month, in the year
one thousand nine hundred and for the purpose of giving in their votes for one
County Treasurer for the County of Middlesex, [to fill the vacancy in the unexpired term ending the first
Wednesday of January, A.D.]— all the ballots given in therefor were sorted, counted and
recorded, and declaration thereof made as by the Constitution and laws directed, and were for the following
persons, viz.:—

Note:
Delete
words in
brackets if
Treasurer
to be
elected for
full term.

..... of
received votes.

..... of
received votes.

..... of
received votes.

..... of
received votes.

Note: Selectmen's signatures
no longer required.
[1982:94]

Selectmen of Town of

Attest:

Town Clerk.

N. B. Insert the number of ballots in words and figures.

This return is to be made to the Clerk of Courts, Court House, East Cambridge, within ten days

after the election. NOTE: Return must be made within 15 days after the election. [1984:241]

SAMPLE FORM

FOR ELECTION RETURNS TO COUNTY COMMISSIONERS - REGISTER OF DEEDS

Commonwealth of Massachusetts

MIDDLESEX, SS.

At a legal meeting of the inhabitants of the town of in
the County of Middlesex, qualified as by the Constitution required, to vote for Civil
Officers, holden on the Tuesday next after the first Monday of November, being the
..... day of said month, in the year one thousand nine hundred and
....., for the purpose of giving in their votes for a Register of Deeds for
the Northern District,—all the ballots given in therefore were sorted, counted and re-
corded, and declaration thereof made as by the Constitution and Laws directed, and were for
the following persons, viz.:—

..... of
received votes.

..... of
received votes.

..... of
received votes.

..... of
received votes.

Note: Selectmen's signatures
no longer required.
[1982:94]

Selectmen of Town of
.....

Attest: *Town Clerk.*

N. B. Insert the number of ballots in words and figures.

This return is to be made to the County Commissioners, Court House, East Cambridge,
within ten days after the election.

NOTE: Return must be made within 15 days after the election [1984:241]

SAMPLE ENVELOPES

FOR RETURNS TO COUNTY COMMISSIONERS

WHITE - ABOUT 4" X 9"

Return of Votes for County Treasurer

From the City—Town—of

Received, — November

19 ..

COUNTY COMMISSIONERS,

Court House,

East Cambridge, Mass. 02141

Return of Votes for Register of Deeds, Northern District.

From the City—Town—of

Received, — November 19 ..

COUNTY COMMISSIONERS,

Court House,

East Cambridge, Mass. 02141

FOR ELECTION RETURNS TO CLERK OF THE COURTS - COUNTY COMMISSIONER

Commonwealth of Massachusetts.

MIDDLESEX, SS.

At a legal meeting of the inhabitants of the city of.....
 town of.....in the County of Middlesex, qualified as by the
 Constitution required, to vote for Civil Officers, holden on the Tuesday next after the first Monday of
 November, being the day of said month, in the year one thousand nine hundred and
, for the purpose of giving in their votes for County Commissioner(s) for the County
 of Middlesex, all the ballots given in therefor were sorted, counted and recorded, and declaration thereof
 made as by the Constitution and laws directed, and were for the following persons, viz.:—

..... of
 received votes.

..... of
 received votes.

..... of
 received votes.

..... of
 received votes.

Note: Selectmen's signatures
 no longer required.
 [1982:94]

*Election Commission
 of the city of*

Selectmen of the town of

Town Clerk
City Clerk

Attest:

N. B. Insert the number of ballots in words and figures.

This return is to be made to the Clerk of Courts, Court House, East Cambridge, within ten days
 after the election.

NOTE: Return must be made within 15 days after the election. [1984:241]

SAMPLE ENVELOPE

FOR RETURNS TO CLERK OF THE COURTS

WHITE - 4" X 9"

County Commissioner

Return of Votes From the City — Town — of

.....
Received, — November 19 .

EDWARD J. SULLIVAN, Esq.

Clerk of the Courts

Court House

East Cambridge, Mass. 02141

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE SECRETARY OF STATE

NUMBER OF PEOPLE WHO VOTED
(Towns Without Precincts)

Town of _____

In accordance with the requirements of the General Laws, I certify that the
number of people who voted at the Town/State election held on _____
date of election
was as follows:

Total number of people who voted _____

Town Clerk _____

Please return to the Secretary of State, Elections Division, Room 1705, One Ashburton
Place, Boston, MA 02108

CORRECTED AFFIDAVIT OF REGISTRATION
(BACK OF FORM)

John J. Jones, 15 Center St. Pct 2

CEASED TO BE A VOTER

[illegible]

COMMONWEALTH OF MASSACHUSETTS

STATE BALLOT LAW COMMISSION
Docket No.

Objector

v.

Respondent

[State below in detail the facts which provide each ground for the objection, and the relief sought. Use other side and additional pages if necessary]

Signature of objector or authorized representative

Name of objector

Name of authorized representative, if any

Voting address

Address

City or town, and zip

City or town, and zip

Telephone number

Telephone number

Date

Certificate of Service

I certify that on _____ I served a copy of this
date
objection on the respondent, _____, by registered or
certified mail, return receipt requested, and on _____
(names of other parties, if any)

by _____
(method of service)

Signed under the penalties of perjury

Please file with: Elections Division,
Department of the State Secretary, One
Ashburton Place, Room 1705, Boston,
MA 02108, telephone (617) 727-2828.

This objection will not be considered
unless you also pay a \$25 filing fee
(pay to Cashier, Room 1715), and
unless a certificate of voter regis-
tration, either at right or on a
separate paper, has been completed,
signed and filed.

THE COMMONWEALTH OF MASSACHUSETTS
CERTIFICATE OF VOTER REGISTRATION

We certify that

(name of objector)
is a registered voter at

(voting address: street and
number, ward and precinct)

Clerk of Board of Registrars of
Voters or Election Commissioners of

(city or town)

FORM E-235 - WHITE

1.2513M8.02

RECOUNT PETITION

DATE and TIME this paper received
by Registrars

CITY OR TOWN

WARD OR PRECINCT

OFFICE OR QUESTION TO BE RECOUNTED

PARTY DESIGNATION (for a primary only)

CANDIDATE'S REQUEST (NOT required for recount of a question)

I request that the following report be conducted.

Candidate's signature: _____

Important: You may use this receipt petition form for all state and local primaries, preliminary elections, and elections.

For an office or question at a state primary or state election where the margin of victory is not more than one-half percent of the vote and you may instead use a special district wide recount petition, which requires fewer signatures. District wide recount petition forms are available from the Office of the Massachusetts Secretary of State, Elections Division, Room 1705, One Ashburton Place, Boston, Massachusetts 02108, (617) 725-2828.

REQUIREMENTS

REQUIREMENTS

Fill in all required information prior to circulating this recount petition. The ward, precinct, city or town, district information, designation of the office or question to be recounted, the statement of reasons for the recount, and party designation if the recount is for a primary.

DEADLINES

Primary or Preliminary: petition must be filed on or before 5 p.m. of the sixth day following the primary or preliminary.

Election: petition must be filed on or before 5 p.m. of the tenth day following the election.

SIGNATURE REQUIREMENTS

City: If a recount is requested in a ward, the petition must be signed by 10 or more registered voters of that ward. In Boston, 50 or more registered voters of that ward. If a city-wide recount is requested, a petition must be filed from each ward and signed by 10 or more registered voters of each ward. In Boston, 50 or more registered voters of each ward).

Town: If a recount is requested in a precinct, the petition must be signed by 10 or more registered voters of that precinct. If a town-wide recount is requested in a town with more than 2,500 registered voters with precincts, the petition must be signed by 10 or more voters of each precinct. If a town-wide recount is requested in a non precinct town, the petition must be signed by 10 or more registered voters of that town.

SIGNERS' STATEMENT

SIGNER'S STATEMENT

We are qualified voters of the Commonwealth and of

We have reason to believe and do believe that the records of the votes cast for the office or question given above at the _____ held in this ward or precinct are erroneous,

that (state reasons on lines below):

☐ OR that challenged votes were cast by people not eligible to vote (check if applicable).

We believe that a recount will affect the nomination or election of one or more candidates for the office above, or the decision of the question

voted upon.

We therefore ask that all votes cast in the ward town or precinct at the primary, preliminary or election be recounted.

NOTARIZATION

NOTARIZATION CERTIFICATE

(One of the signers from each ward of a city or precinct of a town in which a recount is requested must swear to this petition before a notary public or justice of the peace.)

SS

1000

_____ one of the signers
Name _____
of this petition, personally appeared and swore before me that the
above statements are true to the best of his knowledge and belief.

primary Public or holder of the D. u. s.

M. JOURNAL OF THE

SIGN ON THE REVERSE SIDE

ATTENTION VOTERS: Before signing, read information on other side.

ATTENTION REGISTRARS: Before certifying signatures, see Instructions to Registrars, below

CITY OR TOWN _____

OFFICE OR QUESTION TO BE RECOUNTED _____

WARD OR PRECINCT _____

SIGNERS'
INSTRUCTIONS

INSTRUCTIONS TO SIGNERS

Before signing, read the signers' statement on reverse side.

If this is a petition for a **primary** recount, you must have been enrolled in that political party on or before the last day to register for the primary. For your signature to be valid, you must be a registered voter in the city or town and in the ward or precinct named on this petition and your signature should be written substantially as registered.

If you are prevented by physical disability from writing, you may authorize some person to write your name and residence in your presence.

If you have **NOT** moved since January 1 of the current year, complete only columns I and II.

If you **HAVE** moved since January 1 of the current year, you must complete columns I, II and III.

CHECK	I SIGNATURES to be made in person with name substantially as registered except in case of physical disability as stated above	II NOW LIVING AT (street and number)	WARD	PREC.	III RESIDENCE ON JANUARY 1, 19 (if different from column II) (street and number, city or town)
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					
23					
24					
25					

REGISTRAR
INFORMATION

INSTRUCTIONS TO REGISTRARS

You must time-stamp or write in date and time these papers are received.

For a recount of a primary, signers must be voters enrolled in the appropriate party by the last day to register for the primary.

Check this ☒ against the name of each qualified voter to be certified. For names not certified, use the code opposite.

N - no such registered voter at that address

S - unable to identify signature or address as that of voter because of form of signature or address, or illegible

D or R - enrolled in other party; use party initial

E - not enrolled in the appropriate party by the last day to register for the primary

W - wrong district or community

T - signed too many petitions for this recount

CERTIFICATION OF SIGNATURES

(at least three registrars' names must be signed or stamped below)

We certify that the _____ above
number of names certified
signatures checked this ☒ are names of voters of

_____ of _____
ward or precinct city or town
qualified to sign this petition.

Registrars or Voters or Election Commissioners of

city or town

date

SAMPLE STATE-WIDE OR DISTRICT-WIDE RECOUNT PETITION

FORM E-235 - YELLOW

The Commonwealth of Massachusetts

STATEWIDE OR DISTRICT-WIDE RECOUNT PETITION

(State Primary or State Election Only)

DATE and TIME this paper received
by Registrars

CITY OR TOWN _____

DISTRICT _____

OFFICE OR QUESTION TO BE RECOUNTED

CANDIDATE'S REQUEST (NOT required for recount of a question).

I request that the following recount be conducted.

PARTY DESIGNATION (for a primary only)

candidate's signature

REQUIREMENTS

INFORMATION

For an office or question at a state primary or election only (including statewide offices and questions) you may file a district-wide recount petition if the margin is not more than **one-half percent** of the vote cast on that office or question. (If in doubt, you may file regular recount petitions as well.)

SIGNATURE REQUIREMENTS

The petition must be signed by one-fourth the number of voters required to sign a state primary nomination paper for a candidate in this district, but 1,000 for the entire state. Check with the State Elections Division, (617) 727-2828 for the exact number. There are no limitations on where signatures may be obtained in the district.

Only signers from a single city or town may sign each sheet of this petition.

FILL OUT PETITION BEFORE CIRCULATING

Fill in all required information prior to circulating this recount petition: the city or town, district information, designation of the office or question to be recounted, the statement of reasons for the recount, and party designation if the recount is for a primary.

DEADLINES

State Primary: Petition must be submitted for certification to registrars of voters in signers' city or town by 5 p.m. of the **third day** after the primary, and then filed with the Secretary of State by 5 p.m. of the **seventh day** after the primary.

State Election: Petition must be submitted for certification to registrars of voters in signers' city or town by 5 p.m. of the **tenth day** after the election, and then filed with the Secretary of State by 5 p.m. of the **fifteenth day** after the election.

SIGNERS' STATEMENT

SIGNERS' STATEMENT

We are qualified voters of the Commonwealth and of _____ (city or town)

We have reason to believe and do believe that the records of the votes cast for the office or question given above at the _____ (state primary or state election)

held in this district are erroneous, that (state reasons on lines below)

☐ OR that challenged votes were cast by people not eligible to vote (check if applicable).

We believe that a recount will affect the nomination or election of one or more candidates for the

office above, or the decision of the question voted upon.

We therefore ask that all votes cast in the district at the primary or election be recounted.

NOTARIZATION

NOTARIZATION CERTIFICATE

One of the signers from the district in which a recount is requested must swear to this petition before a notary public or justice of the peace Commonwealth of Massachusetts

_____, SS
city or town

19____

_____, one of the signers
of this petition, personally appeared and swore before me that the above statements are true to the best of his knowledge and belief.

Notary Public or Justice of the Peace

My commission expires _____

SIGN ON THE REVERSE SIDE

ATTENTION VOTERS: Before signing, read information on other side.

ATTENTION REGISTRARS: Before certifying signatures, see Instructions to Registrars, below.

CITY OR TOWN _____

OFFICE OR QUESTION TO BE RECOUNTED _____

DISTRICT _____

SIGNERS'
INSTRUCTIONS

INSTRUCTIONS TO SIGNERS

Before signing, read the signers' statement on reverse side.

If this is a petition for a primary recount, you must have been enrolled in that political party on or before the last day to register for the primary.

For your signature to be valid, you must be a registered voter in the city or town and in the district named on this petition and your signature should be written substantially as registered.

If you are prevented by physical disability from writing, you may authorize some person to write your name and residence in your presence.

If you have NOT moved since January 1 of the current year, complete only columns I and II.

If you HAVE moved since January 1 of the current year, you must complete columns I, II and III.

CHECK	I SIGNATURES to be made in person with name substantially as registered (except in case of physical disability as stated above)	II NOW LIVING AT (street and number)	WARD	PREC.	III RESIDENCE ON JANUARY 1, 19 (if different from column II) (street and number, city or town)
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
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15					
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17					
18					
19					
20					
21					
22					
23					
24					
25					

REGISTRAR
INFORMATION

INSTRUCTIONS TO REGISTRARS

You must time-stamp or write in date and time these papers are received.

For a recount of a primary, signers must be voters enrolled in the appropriate party by the last day to register for the primary.

Check thus ✓ against the name of each qualified voter to be certified. For names not certified, use the code opposite.

For a district-wide recount of a state primary, you must complete certification by 5 p.m. of the sixth day after the primary.

N - no such registered voter at that address

S - unable to identify signature or address as that of voter because of form of signature or address, or illegible

D or R - enrolled in other party; use party initial

E - not enrolled in the appropriate party by the last day to register for the primary

W - wrong district or community

T - signed too many petitions for this recount

CERTIFICATION OF SIGNATURES

(at least three registrars' names must be signed or stamped below)

We certify that the _____ above
number of names certified
signatures checked thus ✓ are names of voters of

_____ of _____
district city or town
qualified to sign this petition

Registrars of Voters or Election Commissioners of
city or town date

SAMPLE NOTICE TO CANDIDATES - RECOUNTS

Paper Ballots and Punch Cards

(Registrars' Letterhead)

Date _____

Candidate's name
Address

This is to notify you that a petition for the recount of ballots cast for the office of [title] at the election [primary] held on [date] has been received and certified by this board. The recount will take place at [hour] on [date] at Town Hall.

You are entitled to be present at the recount and to be represented by counsel. You or your counsel may appoint in writing [#] agents who may observe the recount proceedings. One agent may observe each clerk engaged in recounting ballots. Each agent must present his written appointment to the registrars before the recount begins.

The registrars will hold a hearing to begin at [time] on [date] at the Town Hall during which they will determine whether or not challenged and escrow ballots will be counted.

If you wish to examine the numbers registered on the ballot boxes, please notify this office immediately so that arrangements can be made to have the boxes available at the Town Hall.

The Registrars will outline the procedures to be used at the recount shortly before it begins.

Enclosed please find a copy of Chapter 54, section 135 of the General Laws for your information.

If you have any questions, please call the office at [telephone number].

Board of Registrars

By: _____
Clerk

Note: For a recount in a voting machine town, add a copy of or reference to 54:135A. For a recount in a punch card town, add a copy of or a reference to 54:135B.

SAMPLE NOTICE TO CANDIDATES - RECOUNTS

Voting Machine Examination

Note: For a recount in which voting machines must be examined, the information similar to that shown below needs to be added to the notice on the previous page unless all voting machines can be examined in the same location as the absentee ballots are being recounted.

Voting machines will be examined at the following times and locations:

Starting at 8 P.M. on [date]

Precinct 1 - at the Center School, 19 Midtown Road
Precinct 2 - at the Fire Station, 651 Brattle Street
Precinct 3 - at the South School, 42 South Street
Precinct 4 - at the Public Library, 293 Main Street

The recount will begin concurrently at Precinct 1 and Precinct 3. When Precinct 1 has been completed, the officials examining the machines will proceed immediately to Precinct 2. When Precinct 3 has been completed the officials examining the machines will proceed immediately to Precinct 4.

To observe the examination of all machines, you will need to appoint 4 agents, two to observe in Precincts 1 & 2, and two others to observe Precincts 3 & 4.

.....

SAMPLE RECOUNT SEAL

The Commonwealth of Massachusetts

of

This envelope has been opened; the ballots taken therefrom,
recounted, returned to the envelope, sealed again by the Board of
Registrars, according to law.

Date Sealed

Board of Registrars

SAMPLE AMENDMENT TO PERMANENT ELECTION RECORD

(TOWN VOTING BY PRECINCTS)

ANNUAL TOWN ELECTION

RECOUNT OF OFFICE OF ASSESSOR

April 9, 1985

A recount was held by the Midtown Board of Registrars on April 9, 1985 at 7:30 P.M. at the Town Hall pursuant to a petition for such recount filed with the town clerk and certified by the Registrars on April 4, 1985.

As determined by the recount, the votes cast for the office of Assessor were as follows:

	PCT 1	PCT 2	PCT 3	PCT 4	TOTAL
Alfred P. White	158	224	231	135	748
Jane B. Value	90	140	40	35	305
Xavier Connolly	240	300	100	110	750
Scattering	9	6	4	2	21
Blanks	496	350	775	622	2,243
Total Ballots Cast					4,067

A true record, Attest:

Signature
Town Clerk

SAMPLE NOTICE - DISCONTINUE RECOUNT

(Town Clerk's Letterhead)

Date _____

Candidate's Name
Address

This is to notify you that a written request for a discontinuance of the recount of ballots cast for the office of [title] scheduled for [date] at [time] has been received by this office.

The recount will be discontinued unless you file with this office a written notice of objection to the discontinuance. Your objection must be filed by [time] on [date].

If you have any questions, please call me at [telephone number]

Signature _____
Town Clerk

INDEX

Absentee Ballots

- acceptance or rejection of, 134
- amending records to include, 245-247, 288-290
- counted in office on election night, 244-247
- counting the, 192, 245, 287, 288
- deadline for mailing of overseas, 285
- deadline for receipt of, 285, 286
- delivered to polls, 134
- deposited in ballot box, 137
- marking voting list for, 135
- overseas, 285-291
- preliminary procedures for counting, 244, 287
- processing the, 134-138, 244, 245, 286
- received after certificate to vote in person issued, 74
- received late, 285-290
- rejected overseas, 291
- sealing the counted overseas, 290
- warden to process at polls, 134

Affidavit

- of continuous residence, 54, 55, 59
- of registration, 49, 50, 57, 67
- of registration correction, 314, 326
- of supplementary registration, 63

After Polls Close

- count number of ballots, 146-148
- count names on voting list, 141-145
- count votes, 152-217
- locking voting machines, 150
- open ballot box, 146, 147
- polling place to remain open, 140
- procedures for, 141-151
- warden to keep order, 141

Announce Election Results

- how to, 219, 220
- information to, 220, 221
- when to, 218

- who may, 219

Annual Register, 317, 324, 327

Assistance for Voters, 78

Ballot(s)

- absentee (see Absentee Ballot)
- balancing number of, 150
- blocks of, 163, 200, 210
- box, 8, 14, 15, 95, 146
- challenged, 80-85
- checking, 10-12
- checking, labels, 23
- count number of, 146-148
- counting votes on (see Counting Votes)
- envelopes for spoiled and escrow, 7, 147-149, 224, 227
- escrow, 85-89
- invalid, 169
- invalidating marks on, 127, 161, 169, 201
- protested, 381-386
- recounting, 339-403
- to remain inside guard rail, 127
- specimen, 15, 16
- spoiled, 79, 80, 149, 151
- substitute, 4-6
- uncancelled, 161
- unused, 148

Ballot Box

- examination of, 14, 15, 394
- delivery of, 8
- depositing ballots in, 41
- keys, 14, 146, 228
- opening of, 146
- problems with, 95-98
- to remain locked after election, 411

Block Tally Sheet

- enter block number on, 163
- entering total votes and blanks on, 171
- may be examined at recounts, 394

Block Tally Sheet (cont.)

- recording votes on, 165-171
- for recounts, 356,357
- for rejected punch cards, 213
- tellers to sign, 172,192,212,214
- for write-in votes, 170,190,212

Campaign Materials

- activities regarding, 130
- items of, prohibited, 129
- observers prohibited from displaying, 126
- prohibited locations for, 129
- voter complaints regarding, 131

Candidates

- declaring, elected, 249,250
- may examine counters, 22
- may examine machine count, 199
- observers at polls, 122-125
- observers at recounts, 352-354
- rights at recounts, 367

Cards

- party change, 13,43,68,319-328
- penalty, 15
- specimen ballots and, 15
- census records, 315,327

Certificate

- authorizing and issuing listing error, 55-62,64-66,69
- authorizing and issuing warden's, 52-55,59,64-66,69
- combined listing error and warden's, 63
- of election or nomination, 291-294
- of election of town clerk, 302
- of error in party enrollment, 66-69
- of necessity, 409-411
- procedures for processing, 312
- processing, and notes, 311-318,321
- registrars to ratify, 317,318
- types of, to be processed, 311

- to vote in person after requesting absentee ballot, 70-75
- of voter registration, 336
- voting by, 59-62,65,66,69,73
- when to process, 311,319

Challenged and Escrow Ballots

- at the election, 80-89
- at the recount, 386-392

Challenged Voters, 80-85

- absentee, 81,84
- due to no voter identification, 54,55,60,81
- hearing for, at recount, 387
- information on ballot of, 82
- marking voting list for, 83
- oath for, 82
- procedures for voting by, 81-85
- reasons for, 81
- record of, 84
- no statements may be made with respect to, 85,391
- voting at office, 84

Closing Polls, 139,140

- announcement for, 139
- voters admitted after, 139,140
- warning announcement for, 139

Collecting Signatures

- on election day, 132

Contest(ed) Election

- amending the record after a, 334
- deadline for filing to, 330
- deciding claim of, 333
- documents filed to, 329
- filing with town clerk to, 329
- voting machine examination for, 331-333
- who may, 328

Counting Votes

- not to be adjourned, 153

Counting Votes (cont.)

- as blanks, 167-169,194,215
- for candidates and questions, 154-161
- when, may begin, 152
- by computer, 210
- forms for, 152
- when group voting, 167
- by hand in punch card towns, 211-214
- marking tally sheets while, 165-167
- on paper ballots, 154,162-176
- in polling place, 152
- on punch cards, 154,155,200-217
- at recounts, 371-396
 - write-in or sticker, 155-161,170
- on voting machine, 162-173,176-200

Custodian of Voting Machines, 17, 100,356

Declaration

- of election results, 219-221
- of polls open, 26,27
- of polls closed, 139

Delivery of Election Materials

- by police officers, 3
- to polling places, 3,4
- problems with, 4-9
- to registrars for recount, 367-370

Disorderly Conduct, 133

Disposal of Election Materials, 411,412

Dropped Voter List, 50,54

Election Clerk

- amending the, record, 247,289
- certificate of, 176,196,217
- to complete and sign election record, 225

Election Clerk (cont.)

- to examine ballot materials, 202-205
- may announce election results, 219
- to record challenged voters, 84
- to record escrow voters, 89
- to record number of ballots, 10, 12,147-149
- to record numbers on ballot box register, 14,147
- to record voting machine problems, 102
- to sign proof sheet, 21,229
- to sign sealed election material, 222-226,228,231-235
- to sign test and vote count printout, 210,211
- to sign total vote sheet, 176,196, 217

Election Day Problems, 76-120

Election Materials

- delivery of, 3,4,367-370
- disposal of, 411,412
- federal retention period for, 408
- packing and sealing, 222-236, 396,397
- receiving, at polls, 9
- for recounts, 356-363
- retention of, 404-411
- returning to town clerk, 236,237
- security of, 238,398,404
- state retention period for, 404
- substitute, in case of loss, 4-9

Election Officers

- to announce voter's name and address, 29,40
- arrival at polls, 9
- assignment of, 16
- to assist voters, 78,79
- at check-in table, 28-32
- at check-out table, 39,40
- duties of, before polls open, 10-26
- to instruct voters, 76-78
- to mark voting list, 30,31,40,136

Election Record

- to be amended after recount, 400
- permanent, 295,296

Election Returns (see Transmitting Election Returns)

Escrow Ballots

- to be counted, 282
- hearing for, at recount, 387
- notices of opening of, 278
- oath for, 82
- to be opened, 277,278
- persons permitted to mark, 85,86
- procedures for handling, 86-89
- record of, required, 88
- at recounts, 386-392
- registrars responsibility
 - regarding, 277-282
- reported to town clerk, 283
- to be sealed in envelope, 224, 277,284

Group Voting, 167

Guard Rails, Persons Within, 128

Instruction Cards, Posting of, 15

Instructions for Voters, 76-78

Late Absentee Ballots, 285-291

Listing Error Certificate

- for address errors, 64,65
- authorizing the, 55-59
- issuing the, 60-62
- for name error, 65
- for party enrollment error, 68

Marking Units

- demonstration of, 26
- inspection of, 122
- testing of, 25,117

Model Voting Machine, 25

Nomination Objections

- deadline for filing, 337
- decision on, 339
- fee for filing, 336
- filing, 335-337
- hearing on, 338
- mailing copies of, 337
- procedures for, 338,339
- at state primaries, 335-339

Notices

- of discontinued recount, 403
- of election to town committee, 294
- of hearing on challenged ballots, 352
- of hearing on escrow ballots, 278,352
- of objection to nomination, 338
- of recounts, 350-352

Observers

- at the polls, 122-125
- at recounts, 352-354
- at tabulation center, 208

Omitted Voters, 44-62

Overseas Ballots, Late, 285-291

Packing and Sealing

- absentee ballot applications, 227, 231,233
- ballot box keys, 228,232,234
- counted absentee and challenged ballots, 230,231
- counted ballots, 225,226
- counted pack sheets, 230
- counted punch cards, 232,233
- disposition sheets of absentee ballots, 228,231,233
- election clerk's record, 225
- election materials, 222-236
- escrow ballots, 224,230,233
- gray write-in envelopes, 233

Packing and Sealing (cont.)

- list of absentee ballot applicants, 227,231,233
- materials in voting machine towns, 229-232
- metal carrying case, 234,235
- miscellaneous materials, 228,229, 232,234
- payroll records, 225
- proof sheets, 229
- punch card stubs, 234
- after recounts, 396-398
- rejected absentee ballots, 228,231,233
- rejected punch cards, 235
- spoiled ballots, 227,233
- tally sheets, 223,224
- test punch cards, 233
- total vote sheet, 224
- unused ballots, 231,233
- used certificates and cards, 228,230,232
- used demonstration punch cards, 233
- voting lists, 223
- voting machine keys, 231
- write-in paper, 230

Paper Ballot Towns

- counting votes in, 162-176
- preliminary work at polls in, 10-17
- recounts in, 372
- voting in, 31,33,34,36

Partial Ballots, Counting of, 247

Party Change Cards

- to be available at polls, 43
- for checking enrollment, 68
- filing, 327
- after primaries, 319-328
- processing the, 319-327
- receipt for, 327
- retention of, 328,407

Party Enrollment Error, 66-70

Penalty

- for attempting to vote illegally, 32
- for destruction of or interference with delivery of materials, 8,9
- for destruction of specimen ballot or instruction card, 16
- for disobeying lawful command of election officer, 127
- for disorderly conduct, 133
- on election officers, 217,236
- for examining ballots cast except as law requires, 406
- for failing to record and transmit votes cast, 297,310
- for false oath, 82
- for hindering or delaying voter, 126
- for illegally marking ballot, 128
- for inducing voter to disclose how he voted, 39
- for information omission on challenged ballots, 83
- for interfering with election officer, 134; transmission of ballots, 8,207,237; with voter, 39,126
- for intimidation of voter, 81
- for issuing false certificate of recount votes, 402
- for making false statement, 79
- for marking another's ballot, 79
- for obstructing voter, 126
- for placing illegal marks on ballot, 161,128
- for providing false information to warden, 45
- for refusing to accept a ballot, 42
- for removal of ballot from within guard rail, 127
- regarding use of campaign material, 131,132
- for unauthorized deposit of ballots in ballot box, 42
- for unauthorized removal of ballots from ballot box, 146

Penalty Cards, 15

Permanent Election Record, 295,296

to be amended after recount, 400

Police Officer

assignment of, at polls, 17
delivering election materials, 3
to enforce laws and regulations,
126,127,130
off duty, may distribute campaign
material, 131

Polling Place

campaign material at, 129-131
after closing the, 140-151
clearing the, 239,240
closing the, 139,140
disorderly conduct at, 133
observers at, 122-125
preparation of the, 10-26
prohibited activities at, 126-133
smoking and liquor prohibited at,
133,134

Primaries, 93-95

Protested Ballots

at recount, 381-386

Punch Card(s)

challenged ballots, 82,201,204
counting the, 200-217
examining the, 200-205
overvoted or damaged, 213,215
polling place preparation in,
towns, 12,13,25,26
problems, 117
recounts, 378-381
sorting of, 200,201
tabulation center procedures for
counting, 209-214
transmittal of, to tabulation
center, 205-207
warden to examine, 202
write-in votes on, 200,202,211
voting by, 31,34,35,37,41

Recording

ballot blanks, 167-169,194,215
red pens or pencils used for,
152,364
votes, 164-217,182,185,189,193

Recounts

absentee ballot applications and
envelopes at, 393
amending election record after,
400
announcing results of, 396
ballot boxes at, 395
candidates' rights at, 367
certifying and sealing election
materials after, 398
challenged and escrow ballots at,
386-392
completing the, 396-399
discontinuing the, 402,403
election record at, 395
equipment for, 364-366
information to be disseminated
before, 366,367
late absentee ballots at, 396
location of, 363
of machine write-in votes, 377
materials needed for, 356-363
notices required for, 350-352
observers at, 352-354
paper ballot town procedures for,
372-374
personnel for, 354-356
petition for, 339-347
preparing for, 354-367
procedures for after the, 399-402
procedures during, 371-396
procedures prior to beginning the,
367-370
protested ballots at, 381-386
punch card town procedures for,
378-381
of punch card write-ins, 380
record of, to be transmitted, 402
registrars' certificate after, 400
registrars' statement after, 399
rejected absentee ballots at,
392-394

Recounts (cont.)

- scheduling the, 347-350
- spoiled and unused ballots to be counted at, 394
- state or district election, 345, 349, 350
- voting list at, 395
- voting machine town procedures for, 374-378

Recount Petition

- certification of signatures on, 346
- contents of, 340-344
- deadline for filing the, 345, 346
- filing the, 344-346
- form of, 339, 340

Red Pens and Pencils

- to be used at elections, 152
- to be used at recounts, 364

Registrars

- to authorize warden's certificates, 52-55
- certificate of vote, after recount, 400
- to count eligible escrow ballots, 283
- to determine when absentee ballot rejected at recount, 392-394
- to determine counting of challenged ballots, 388
- to determine count of protested ballot, 382
- to determine counting of escrow ballots, 279-282, 389
- to determine voter eligibility, 53
- to hear evidence and testimony, 281, 388
- issuance of listing error certificate by, 60
- minutes of meetings/hearings of, 285, 392, 400
- to open escrow ballots, 277
- to be present at recounts, 354

- to receive recount petitions, 344-346
- to report escrow votes to town clerk, 283
- to search records, 279, 363
- statement after recount, 399
- may summon witnesses, 279, 387
- to vote on each challenged ballot, 389
- to vote on each escrow ballot, 282, 389

Reporting

- election returns, 300-310
- number of names marked on voting list, 309
- state election results, 221

Retention of Election Materials, 404-411

Smoking at Polls Prohibited, 133

Specimen Ballots, 15

Spoiled Ballots, 79, 80, 149, 151, 227

Substitute Ballots, 5, 6

Supplementary Registration, 63

Tabulation Center

- barriers in the, 208
- count ballots at, 209-214
- observers at the, 208
- personnel at, 207
- procedures at the 207-214, 380
- recording votes at, 214-217
- removing damaged cards at the, 208
- warden or town clerk presiding officer at the, 207

Total Vote Sheet

- absentee and challenged ballots on, 192, 195, 244
- amending the, 245, 288
- balancing the, 175, 195, 216

Total Vote Sheet (cont.)

- calculating totals on, 175,192,216
- completing the, 175,196,214,248
- correcting errors on, 243
- may be examined at recount, 395
- partial ballots on, 247
- for punch cards, 214-217
- recording totals on, 173-175,182, 185-192,196,214-216
- for recounts, 357
- tellers to sign, 196
- town, 240-249
- in towns with precincts, 241,242
- in towns without precincts, 241,242
- for voting machines, 195,196
- write-ins to be recorded on, 170, 189,192,193,215

Town Clerk

- to accept or reject absentee ballot, 134
- to amend records to include escrow votes, 284
- to amend records after recount, 400
- certificate of necessity, 409,411
- to certify number of names marked on voting list, 309
- declares polls open or closed, 26,139
- to distribute copies of amended election record, 402
- to distribute registrars' recount certificate, 403
- duties of, before polls open, 3-25
- election day responsibilities of, 1,2
- as presiding officer at tabulation center, 207
- to provide election material in contested elections, 334
- to receive election materials, 237,238
- to receive filings for contested elections, 329
- to receive recount petition, 344-346

- to record registrars' certificate of recount, 401
- to report election returns, 300-310
- to search for absentee ballot record, 71
- to search for omitted voter, 48-52

Transmitting Election Returns

- of ballot questions, 303-305
- of county officers, 308
- of elected constable, 302
- of elected selectmen and town clerk, 301,302
- of elected town officials, 301
- of housing or redevelopment authority, 303
- of state elections, 306-309
- of state and presidential primaries, 305,306

Voter

- certificate to vote in person after requesting absentee ballot, 70-75
- check-in, 28-32
- check-out, 39-42
- decides not to vote, 112
- identification, 29,46-48,55,57
- intent in marking ballot, 153, 154,156
- leaving guard rail, 42
- number permitted within guard rail, 39
- omitted, 44-62
- party change cards for, 43
- requests assistance, 78,79
- requests instruction, 76-78
- waiting lines, 118,119,140

Votes

- all valid, to be counted, 153
- balancing, 172,175,195,216
- calculating total, 175,192,216
- counting write-in, 155-161,185-192,211,212
- recording, on block tally sheet, 165-167,171,189-192,211-214
- validity of, 153

Voting

- assistance, 78
- individual time allowed for, 38
- instructions, 76
- by paper ballot, 33,34,36
- in primaries, 93-95
- by punch card ballot, 34,35,37
- in secret, 33
- by voting machine, 35,36,37
- write-in, 36-38

Voting Booths, Inspection of, 121

Voting List

- amending the, to include absentee ballots, 246,298
- correcting clerical errors on, 92
- counting names marked on, 141-151
- election officers to sign, 145
- no entries on, for escrow votes, 88
- envelope for, 223
- errors on, 64-69,74,89-93
- may be examined at recount, 395
- marking of, 30,31,40,136,287
- party changes recorded on, 325
- public examination of the, 298,299
- resolving discrepancies in balance of, 297,298
- sealing the, 223,291,300,398
- substitute, 7
- updating the, 314,325

Voting Machine(s)

- candidate may examine counters on, 22,199
- to be closed, sealed, locked after vote count, 197-199,408
- counting votes from nonprintomatic, 183-185
- counting votes from printomatic, 177-183
- counting write-in votes from, 185-192
- custodian of, 17,100,356
- inspection of, 121-122,374-377
- keys, 7,18,24,150,198,231,366
- locking of, 150

- model, 25

- nonprintomatic, 21

- preparation of, 18-25

- printomatic, 20

- problems with, 17,98-117

- at recounts, 374-378

- removing, from polling place, 199

- removing write-in paper from, 186, 187

- may be unsealed, 408-410

- voting by, 31,35,36

Warden

- may announce election results, 219

- arrival at polls, 9

- certificate, 52-55,59,63,69

- declaring polls closed, 139

- declaring polls open, 26

- to examine ballot box, 14

- to examine ballot materials, 202-205

- to handle ballot box problems, 95-99

- to handle voting machine problems, 98-118

- to inform voters of rights, 55, 69,88

- to keep order, 126,141

- to open ballot box after polls close, 146

- to pack and transmit election materials to tabulation center, 205-207

- to process absentee ballots at polls, 134-139

- to process challenged and escrow voters, 82-88

- to process errors on voting list, 61,64,66,71

- to process omitted voters, 44-48

- to receive election materials, 9,10
- to receive voting machine keys, 18,24

- responsible for assigning duties, 16,130,141,163

- to retain key to metal punch card case, 206

- to return election materials to town clerk, 236,237

Warden (cont.)

- to sign AV20 and AV20A sheets, 228
- to sign proof sheet, 229
- to sign sealed election materials,
222-228,231-235
- to sign test printout and vote
count, 210,211,214
- to sign total vote sheet, 176,196

Warden's Certificate

- authorizing a, 52-55
- of error in address, 64
- of error in name, 65
- of error in party enrollment, 69
- issuing a, 59,60

Warrant, Election, 8,27,139

Write-In(s)

- counting, votes, 155-161,170,171,
185-192,211-214,377,380
- how to vote by, 36-38
- on paper ballots,36
- on punch cards, 37
- stickers for, 155,156
- tally sheet to be signed by
tellers, 192,212
- on voting machines, 37
- voting problems in voting machines,
106-108

